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List of CFR Parts Affected

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Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Administration, Department of Transportation
[Docket No. 71-CE-13-AD; Amdt. 39-1323]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna T50, 172, 175, and 182 Series Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an Airworthiness Directive applicable to Cessna 150, 172, 175, and 182 series airplanes requiring repetitive inspections of early type nose gear forks which have accumulated 1,009 hours' time in service and the retirement thereof after reaching 1,500 hours' time in service, was published in the FEDERAL REGISTER on June 3, 1971 (36 F.R. 10801).

Interested persons have been afforded an opportunity to participate in the making of the amendment. The one comment received was from the manufacturer who recommended that the inspection intervals be increased from 100 hours to 300 hours and that there be no requirement for the retirement of early type nose gear forks. The Agency does not agree with the manufacturer's recommendations. We have continued to receive reports of failures of the early type nose gear forks and have no reason to believe that such reports will not continue until these nose gear forks are retired. In addition, the 100-hour inspection interval is necessary because it shortens the time during which a crack can propagate and is in keeping with the inspection intervals recommended by the manufacturer in Cessna Service Letter 63-31 dated July 16, 1963, which pertains to this same subject.

Subsequent to the issuance of the proposal, the Agency ascertained that nose gear forks bearing part numbers later than those listed in the notice of proposed rule making are identified in current Cessna Parts Catalogue. This information will be included in the adopted rule. In addition, due to the delay in the issuance of the adopted rule the compliance date specified in Paragraph A is being changed to January 1, 1972. Subject to the foregoing, the AD will be modified accordingly.

Since this amendment in part modifies the original proposal, but imposes no additional burden on any person, further notice and public procedure hereon are unnecessary.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 F.R. 13697), § 39.13 of Part 39 of the Federal Aviation

Regulations is amended by adding the following new AD.

Cessna. Applies to 150, 172, 175, and 182 series airplanes with 1000 or more hours' time in service with earlier type nose gear fork installed but does not include the above model airplanes installed with nose gear fork bearing P/Ns 0442503-497, 0543043-497, or 0543043-498, or newer nose gear forks identified in current Cessna Parts Catalogues.

Compliance: Required as indicated, unless already accomplished.

To decrease the possibility of failure of the nose gear structure:

(A) On or before January 1, 1972, and thereafter at intervals not to exceed 100 hours' time in service from the date of the previous inspection, or at any time following severe nose wheel shimmy and/or hard landings, inspect the nose gear fork for cracks in the radius of the milled section of the nose gear strut attachment bolt using the dye penetrant inspection or equivalent nondestructive inspection method.

(B) If cracks are found during the inspections required by Paragraph A, before further flight, replace the affected part with applicable nose gear fork P/N 0442503-497, 0543043-497, or 0543043-498 or newer nose gear forks identified in current Cessna Parts Catalogues.

(C) Upon accumulation of 1,500 hours' total time in service replace earlier type forks with applicable nose gear fork P/N 0442503-497, 0543043-497, or 0543043-498 or newer nose gear forks identified in current Cessna Parts Catalogues.

(D) Upon incorporation of the applicable nose gear fork P/Ns 0442503-497, 0543043-497, or 0543043-498, or newer nose gear forks identified in current Cessna Parts Catalogues, compliance with the provisions of Paragraph A are no longer required.

Cessna Service Letter 63-31 dated July 16, 1963, pertains to this same subject.

This amendment becomes effective October 23, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1431, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Kansas City, Mo., on October 13, 1971.

JOHN M. CYROCKI,
Director, Central Region.

[FR Doc. 71-15395 Filed 10-21-71; 8:47 am]

[Docket No. 69-EA-139; Amdt. 39-1319]

PART 39—AIRWORTHINESS DIRECTIVES

DeHavilland Aircraft

On page 18764 of the FEDERAL REGISTER for November 22, 1969, the Federal Aviation Administration published a proposed rule so as to issue an airworthiness directive applicable to DeHavilland DHC-2 type airplanes.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to

the proposed regulations have been received.

In view of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 [31 F.R. 13697], § 39.13 of the Federal Aviation Regulations is amended hereby and the airworthiness directive adopted as published.

This amendment is effective November 14, 1971.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Jamaica, N.Y., on September 29, 1971.

ROBERT H. STANTON,
Acting Director, Eastern Region.

1. Amend § 39.13 of the Federal Aviation Regulations by:

(a) Revoking Airworthiness Directive 65-25-2.

(b) By issuing the following Airworthiness Directive:

DeHavilland. Applies to all DeHavilland Model DHC-2 Series Aircraft.

Compliance required as indicated.

To preclude failure of lift strut upper fitting, accomplish the following:

(a) For airplanes with wing lift strut assemblies, C2W-545A or C2W-546A, comply with (b) through (d) within the next 100 hours' time in service after the effective date of this AD unless already accomplished within the last 400 hours' time in service and thereafter at intervals not to exceed 500 hours' time in service from the last inspection.

(b) Detach each wing lift strut assembly from its wing upper lift strut fitting. Using a dye penetrant method with at least a 10-power glass or an FAA-approved equivalent method inspect the lift strut upper fitting for cracks.

Note: During the inspection required by (b), particular attention should be given to the one-eighth-inch radius junction of the lug to the attachment flanges.

(c) With each wing lift strut assembly detached, visually inspect the lift strut upper fitting at each one-eighth-inch radius junction of the lug to the attachment flanges to insure that each radius is smooth and blends smoothly into the lug without machine marks or nicks.

(d) If a crack mark or nick is found in the radius, replace the lift strut assembly before further flight with an unused strut assembly C2W1103A or 1104A, C2W-1115-1 or -2 or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(e) For aircraft engaged in other than those operations described in paragraphs (f) and (g), replace strut assemblies as follows:

(1) Strut assemblies C2W-469A or 470A, C2W-473A or 474A, C2W-545A or 546A, and C2W-685A or 686A, must be replaced before their total time in service exceeds 10,000 hours.

Strut assemblies C2W-1103A or 1104A must be replaced before their total time in service exceeds 20,000 hours.

Strut assemblies C2W-1115-1 or -2 retirement is not required.

(2) Whenever new wing strut assemblies are installed, new attachment bolts AN180-26 bolt-strut, lower attachment and C2W-497 bolt-strut, upper attachment, must be used.

(f) For aircraft engaged in low level operations where flying is done at less than 500 feet above ground, and flight maneuvers at 2g (60° banked turn, etc.) and higher are not performed, and are engaged in special purpose operations, replace strut assemblies as follows:

(1) Strut assemblies C2W-545A or 546A must be replaced before their total time in service exceeds 2,600 hours.

Strut assemblies C2W-469A or 470A, C2W-473A or 474A, and C2W-685A or 686A must be replaced before their total time in service exceeds 5,000 hours.

Strut assemblies C2W-1103A or 1104A must be replaced before their total time in service exceeds 10,000 hours.

Strut assemblies C2W-1115-1 or -2 retirement is not required.

(2) Whenever new wing strut assemblies are installed, new attachment bolts AN180-26 bolt-strut, lower attachment and C2W-497, bolt-strut, upper attachment, must be used.

Note: Special purpose operations are defined in DeHavilland's Service Bulletin No. 2/3, paragraph 3.1, dated December 20, 1967.

(g) For aircraft engaged in operations requiring turning or pullout maneuvers which impose accelerations of 2g and higher or overload operations in excess of 5,100 pounds, comply with the requirements of paragraph 4 through 4.3 of DeHavilland's Service Bulletin No. 2/3 or an equivalent schedule approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(h) For aircraft operated under both categories specified in (e) and (f):

(1) Strut assemblies must be replaced at the time specified in (f), for any of the operations which the aircraft has performed.

(2) Upon request with substantiating data submitted through an FAA maintenance inspector, the replacement intervals specified in this AD may be adjusted by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(i) Modified or repaired struts as defined in paragraphs 5.1 and 5.2 of DeHavilland Service Bulletin No. 2/3, Series DHC-2 Beaver, dated December 20, 1967, must be replaced in accordance with the times prescribed therein.

DeHavilland Service Bulletin No. 2/3, Series DHC-2 Beaver, dated December 20, 1967, and Engineering Bulletin Series B, No. 32, dated August 10, 1964, pertain to this subject.

This directive supersedes Airworthiness Directive 65-25-2.

[FR Doc.71-15398 Filed 10-21-71;8:47 am]

[Airspace Docket No. 71-CE-85]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Recision of Alternate Airway Segments

On July 31, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (36 F.R. 14215) stating that the Federal Aviation Administration (FAA) was considering an amendment to

Part 71 of the Federal Aviation Regulations that would rescind an east alternate segment of VOR Federal airway No. 5 and an east alternate segment of VOR Federal airway No. 55.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No adverse comments or objections were received.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., January 6, 1972, as hereinafter set forth.

Section 71.123 (36 F.R. 494, 2010, 18076) is amended as follows:

1. In V-5 "Appleton, Ohio, including an east alternate; Mansfield, Ohio," is deleted and "Appleton, Ohio; Mansfield, Ohio;" is substituted therefor.

2. In V-55 all before "Goshen, Ind.," is deleted and "From Dayton, Ohio; Fort Wayne, Ind.;" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., October 18, 1971.

H. B. HELSTROM,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.71-15392 Filed 10-21-71;8:47 am]

[Airspace Docket No. 71-SO-126]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area; Correction

On September 10, 1971, F.R. Doc. 71-13290 was published in the FEDERAL REGISTER (36 F.R. 18192), amending Part 71 of the Federal Aviation Regulations by designating the Ahoskie, N.C., transition area.

In the amendment, a transition area extension was predicated on the Cofield VORTAC 255° radial. Subsequent to publication of the rule, the final approach radial was changed to 253°. Since this amendment is minor in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, effective immediately, F.R. Doc. No. 71-13290 is amended as follows:

In line five of the Ahoskie, N.C., transition area description "° * * 255° * * *" is deleted and "° * * 253° * * *" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on October 14, 1971.

ROBERT O. BLANCHARD,
Acting Director, Southern Region.

[FR Doc.71-15393 Filed 10-21-71;8:47 am]

[Airspace Docket No. 71-SO-164]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to alter the Florida transition area.

The Florida transition area is described in § 71.181 (36 F.R. 2140 and 19360). In the description, reference is made to various airports in the State of Florida and NAS Pensacola LF RBN. Because of the refinement of geographic coordinates of these various airports, and the relocation of NAS Pensacola LF RBN, it is necessary to alter the transition area. Since these amendments are editorial in nature, notice and public procedure hereon are unnecessary.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective immediately, as hereinafter set forth.

In § 71.181 (36 F.R. 2140), the Florida transition area (36 F.R. 19360) is amended as follows:

1. "° * * Patrick AFB, Fla. (latitude 28°14'05" N., longitude 80°36'35" W.) * * *" is deleted and "° * * Patrick AFB, Fla. (lat. 28°24'21" N., long. 80°36'28" W.) * * *" is substituted therefor.

2. "° * * Miami International Airport (latitude 25°47'35" N., * * *" is deleted and "° * * Miami International Airport (lat. 25°47'34" N. * * *" is substituted therefor.

3. "° * * MacDill AFB (latitude 27°51'05" N., longitude 82°31'15" W.) * * *" is deleted and "° * * MacDill AFB (lat. 27°50'57" N., long. 82°31'38" W.) * * *" is substituted therefor.

4. "° * * on NAS Pensacola LF RBN * * *" is deleted and "° * * at lat. 30°20'19" N., long. 87°20'00" W. * * *" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in East Point, Ga., on October 14, 1971.

ROBERT O. BLANCHARD,
Acting Director, Southern Region.

[FR Doc.71-15394 Filed 10-21-71;8:47 am]

[Docket No. 11450; Amdt. No. 779]

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes

and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets for the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 F.R. 5609).

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20590. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, DC 20590, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of \$125 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.11 is amended by establishing, revising, or canceling the following L/MF-ADF(NDB)-VOR SIAP's, effective November 11, 1971:

Gustavus, Alaska—Gustavus Airport; LFR-1, Amdt. 13; Canceled.
Gustavus, Alaska—Gustavus Airport; ADF-1, Amdt. 7; Canceled.

2. Section 97.13 is amended by establishing, revising, or canceling the following Ter VOR SIAP's, effective November 18, 1971:

Flagstaff, Ariz.—Pulliam Airport; VOR R-070, Original; Canceled.

3. Section 97.23 is amended by establishing, revising, or canceling the following VOR-VOR/DME SIAP's, effective November 18, 1971:

Alamosa, Colo.—Alamosa Municipal Airport; VOR-A, Amdt. 1; Revised.
Cedartown, Ga.—Cornelius-Moore Field; VOR-A, Amdt. 4; Revised.
Flagstaff, Ariz.—Pulliam Airport; VOR-A, Original; Established.
Lawrenceville, Ga.—Gwinnett County Airport; VOR Runway 7, Amdt. 3; Revised.
Pell City, Ala.—St. Clair County Airport; VOR-A, Amdt. 1; Revised.
Rome, Ga.—Richard B. Russell Airport; VOR Runway 36, Amdt. 6; Revised.
Santa Maria, Calif.—Santa Maria Public Airport; VOR-A, Amdt. 2; Revised.
Santa Maria, Calif.—Santa Maria Public Airport; VOR Runway 12, Amdt. 6; Revised.
Talkeetna, Alaska—Talkeetna Airport; VOR-A, Amdt. 5; Revised.

Alamosa, Colo.—Alamosa Municipal Airport; VOR/DME-A, Amdt. 1; Revised.
Crossville, Tenn.—Crossville Memorial Airport; VOR/DME-A, Amdt. 4; Revised.

4. Section 97.25 is amended by establishing, revising, or canceling the following SDF-LOC-LDA SIAP's effective November 18, 1971:

Columbus, Ga.—Columbus Metropolitan Airport; LOC (BC) Runway 23, Amdt. 3; Revised.
Salt Lake City, Utah—Salt Lake City International Airport; LOC (BC) Runway 16R, Amdt. 10; Revised.

5. Section 97.27 is amended by establishing, revising, or canceling the following NDB/ADF SIAP's, effective November 11, 1971:

Gustavus, Alaska—Gustavus Airport; NDB-A, Original; Established.

6. Section 97.27 is amended by establishing, revising or canceling the following NDB/ADF SIAP's, effective November 18, 1971:

Atlanta, Ga.—The William B. Hartsfield Atlanta International Airport; NDB Runway 27L, Amdt. 3; Revised.
Atlanta, Ga.—The William B. Hartsfield Atlanta International Airport; NDB Runway 27E, Amdt. 3; Revised.
Atlanta, Ga.—The William B. Hartsfield Atlanta International Airport; NDB Runway 33, Amdt. 12; Revised.
Birmingham, Ala.—Birmingham Municipal Airport; NDB Runway 5, Amdt. 23; Revised.
Birmingham, Ala.—Birmingham Municipal Airport; NDB Runway 23, Amdt. 9; Revised.
Chattanooga, Tenn.—Lovell Field; NDB Runway 20, Amdt. 22; Revised.
Crossville, Tenn.—Crossville Memorial Airport; NDB Runway 25, Amdt. 2; Revised.
Dalton, Ga.—Dalton Municipal Airport; NDB Runway 32, Amdt. 2; Revised.
Gainesville, Ga.—Lee Gilmer Memorial Airport; NDB Runway 4, Amdt. 1; Revised.
Milledgeville, Ga.—Baldwin County Airport; NDB Runway 27, Amdt. 1; Revised.
Pine Mountain, Ga.—Gardens-Harris County Airport; NDB Runway 9, Amdt. 4; Revised.
Rome, Ga.—Richard B. Russell Airport; NDB-A, Amdt. 6; Revised.
Talkeetna, Alaska—Talkeetna Airport; NDB-A, Amdt. 11; Revised.

7. Section 97.29 is amended by establishing, revising, or canceling the following ILS SIAP's, effective November 18, 1971:

Atlanta, Ga.—The William B. Hartsfield Atlanta International Airport; ILS Runway 33, Amdt. 17; Revised.
Birmingham, Ala.—Birmingham Municipal Airport; ILS Runway 5, Amdt. 27; Revised.
Chattanooga, Tenn.—Lovell Field; ILS Runway 20, Amdt. 22; Revised.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1958; 49 U.S.C. 1438, 1354, 1421, 1510; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1))

Issued in Washington, D.C., on October 14, 1971.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

NOTE: Incorporation by reference provisions in §§ 97.10 and 97.20 (35 F.R. 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.15316 Filed 10-21-71;8:45 am]

Title 20—EMPLOYEES' BENEFITS

Chapter V—Manpower Administration, Department of Labor

PART 625—DISASTER UNEMPLOYMENT ASSISTANCE

On pages 13331-13334 of the FEDERAL REGISTER of July 20, 1971, there was published a notice of proposed rule making to issue a complete revision of regulations implementing section 240 of the Disaster Relief Act of 1970. Interested persons were given 15 days in which to submit written data, views, or arguments regarding the proposed regulations. After consideration of all such relevant matter as was presented by interested persons, the regulations as so proposed are hereby adopted, subject to the following changes:

1. Paragraph (x) of § 625.2 is changed as set forth below.

2. Subparagraph (3) of § 625.9(c) is changed as set forth below.

Effective date. As these regulations concern public benefits, no delay in their effective date is required (5 U.S.C. 553) and they shall become effective upon publication in the FEDERAL REGISTER (10-22-71).

Signed at Washington, D.C. this 14th day of October 1971.

J. D. HODGSON,
Secretary of Labor.

Sec. 625.1	Purpose.
625.2	Definitions.
625.3	Announcement of major disaster.
625.4	Applications.
625.5	Employment services.
625.6	Interstate applications.
625.7	Eligibility.
625.8	Unemployment result of major disaster.
625.9	Amount.
625.10	Disclosure of information.
625.11	Determinations.
625.12	Reconsideration and review.
625.13	Overpayments.
625.14	Reports to the Secretary.
625.15	Inquiry.

AUTHORITY: The provisions of this Part 625 issued under sec. 240 of the Disaster Relief Act of 1970, Public Law 91-606, 84 Stat. 1755; E.O. 11575, Dec. 31, 1970, 36 F.R. 37; and the Delegation of Authority from the Director of the Office of Emergency Preparedness to the Secretary of Labor, Jan. 8, 1971, 36 F.R. 1007.

§ 625.1 Purpose.

The regulations in this part are promulgated to effectuate the purpose of—
(a) Section 240 of the Act to pay disaster unemployment assistance, as promptly as possible, in order to mitigate the hardships of individuals unemployed as the result of a major disaster in a State, where the Governor of the State has entered into an agreement with the Secretary for the purpose; and

(b) The last sentence of section 226 (b) of the Act to provide employment services to individuals who are unemployed as a result of a major disaster.

The regulations in this part are to be liberally construed to accomplish their objective.

§ 625.2 Definitions.

(a) "Act" means the Disaster Relief Act of 1970, Public Law 91-606, 84 Stat. 1744.

(b) "Additional unemployment compensation" means cash benefits to individuals with respect to their unemployment totally financed by the State (except when paid pursuant to a Federal unemployment compensation law), in addition to regular unemployment compensation, payable under a State law or Federal unemployment compensation law, including 5 U.S.C. Chapter 85 and the Railroad Unemployment Insurance Act, by reason of conditions of high unemployment or by reason of other special factors, such as, an individual's being in training with the approval of the State agency.

(c) "Announcement date" means the first date on which the Governor announces the availability of disaster unemployment assistance in the State, pursuant to § 625.3.

(d) "Applicable State law" means, with respect to an individual, the unemployment compensation law of the State in which the major disaster occurred as the result of which such individual became unemployed, except when the major disaster occurred in the Territory of Guam, American Samoa, or the Trust Territory of the Pacific Islands, in which case applicable State law means the Hawaii Employment Security Law.

(e) "Date the major disaster began" means the date specified for the purpose in the agreement between the Director, Office of Emergency Preparedness, and the Governor of the State in which the major disaster occurred, and communicated in writing by the Office of Emergency Preparedness to the U.S. Department of Labor.

(f) "Disaster assistance period" means with respect to an individual the 1-year period beginning with the first day of the week that includes the date the major disaster began as the result of which such individual became unemployed, except in special circumstances determined by the Director, Office of Emergency Preparedness, after consultation with the Secretary, the disaster assistance period means with respect to an individual the shorter period beginning with the first day of a week specified in the agreement between the Director, Office of Emergency Preparedness, and the Governor of the State.

(g) "Extended unemployment compensation" means cash benefits to individuals with respect to their unemployment payable under provisions of a State law which satisfy the requirements of the Federal-State Extended Unemployment Compensation Act of 1970, including extended unemployment compensation payable pursuant to 5 U.S.C. Chapter 85.

(h) "Governor" means the chief executive of any State.

(i) "Initial application" means the first application for disaster unemployment assistance filed by an individual subsequent to the announcement date of the major disaster as the result of which such individual became unemployed.

(j) "Major disaster" means a major disaster as determined by the President pursuant to section 102 of the Act.

(k) "Major disaster area" means the area identified as eligible for Federal assistance by the Director, Office of Emergency Preparedness, pursuant to Presidential Declaration of a major disaster.

(l) "Notification" means the written communication in which the President notifies the Governor that a major disaster has been declared in his State.

(m) "Regular unemployment compensation" means cash benefits to individuals with respect to their unemployment payable under any State law or Federal unemployment compensation law, including 5 U.S.C. Chapter 85 and the Railroad Unemployment Insurance Act, other than additional unemployment compensation and extended unemployment compensation.

(n) "Secretary" means the Secretary of Labor of the United States.

(o) "Self-employed individual" means an individual whose primary reliance for income is on his performance of services in his own business or on his own farm.

(p) "Self-employment" means services performed as a self-employed individual.

(q) "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Territory of Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(r) "State agency" means, in all States except Guam, American Samoa, and the Trust Territory of the Pacific Islands, the agency administering the State law, and in Guam, American Samoa and the Trust Territory of the Pacific Islands means the agency designated by the Governor in his agreement with the Secretary to carry out such provisions.

(s) "State law" means the unemployment compensation law of one of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico and the Virgin Islands.

(t) "Subsequent disaster assistance period" means a second or subsequent disaster assistance period initiated by another major disaster before an applicant's prior disaster assistance period has expired.

(u) "Suitable work" means the same as it does under the applicable State law.

(v) "Wages" means remuneration for services performed for another and net income for services performed in self-employment.

(w) "Week" means a week as defined in the applicable State law.

(x) "Week of unemployment" means, with respect to an individual, any week during which he performs no services and no wages are payable to him or he performs less than full-time work and the wages payable to him are less than 1½ times the amount of disaster unemployment assistance payable to him for a week of total unemployment.

§ 625.3 Announcement of major disaster.

After the Governor of a State (who has signed an agreement with the Secretary for the payment of disaster unemployment assistance) receives a notification, he shall promptly announce through all available news media in the State, including newspapers, radio, and television, that individuals who are unemployed as the result of the major disaster may be entitled to disaster unemployment assistance; that they should file initial applications for disaster unemployment assistance, as soon as possible, but not later than the 30th day after the announcement date; the beginning date of the disaster assistance period; and where they should go for information.

§ 625.4 Applications.

(a) (1) An initial application for disaster unemployment assistance shall be filed by an applicant within 30 days after the announcement date of the major disaster as the result of which the applicant became unemployed. But an initial application filed later (except as provided in subparagraph (2) of this paragraph) shall be accepted by the State agency and a determination made whether the applicant had good cause for the late filing. If the State agency determines that there was such good cause, the initial application shall be deemed to have been timely filed; otherwise the application will be rejected.

(2) No application shall be accepted by the State agency if it is filed after the expiration of 1 year from the announcement date of the major disaster as the result of which the applicant became unemployed.

(b) (1) Except as provided in subparagraph (2) of this paragraph, applications (including initial applications) shall be filed in person at a local employment office or a local claims office, as directed by the State agency, but in American Samoa and in the Trust Territory of the Pacific Islands such applications shall be filed in person at the office designated by the Governor.

(2) When the State agency finds that there is an emergency or that individuals are disabled or ill, applications (including initial applications) shall be filed at such times, in such places and in such manner as directed by the State agency.

§ 625.5 Employment services.

Applicants for disaster unemployment assistance and all other individuals who are unemployed as a result of a major disaster shall be afforded employment services (including counseling and referrals to suitable work opportunities and suitable training) to assist them in obtaining suitable work as soon as possible.

§ 625.6 Interstate applications.

The interstate benefit payment plan shall apply, to the extent that it is appropriate, to individuals filing applications for disaster unemployment assistance whose unemployment is the result of a major disaster in a State but who

because of the disaster are not in the State.

§ 625.7 Eligibility.

(a) Disaster unemployment assistance shall be payable under these regulations to an individual for a week of unemployment in his disaster assistance period if with respect to such week—

(1) He has applied therefor as provided in § 625.4;

(2) His unemployment is found by the State agency to be the result of a major disaster in a major disaster area as provided in § 625.8; and

(3) He is able to work and available for work within the meaning of the applicable State law, but if his inability to work or unavailability for work is the result of the major disaster, he shall be deemed to meet this requirement.

(b) No disaster unemployment assistance shall be payable for any period of unemployment before the date the major disaster began in the major disaster area nor for a week of unemployment which begins after the last day of his disaster assistance period.

§ 625.8 Unemployment result of major disaster.

(a) The unemployment of an applicant shall be deemed to be the result of the major disaster in the major disaster area if—

(1) He worked for another as an employee in the major disaster area at the time of such major disaster and, due directly to the disaster, (i) he no longer has the job, or (ii) he cannot perform his job because of damage to his place of work or such other reasons as that necessary material, supplies, or personnel cannot reach his place of work, or (iii) he cannot reach his place of work;

(2) He lived in the major disaster area at the time of the major disaster and he cannot reach his place of work outside of such area as the result of damage to the means of transportation caused by the disaster;

(3) He was a self-employed individual in the major disaster area at the time of such major disaster and he cannot perform services in his business because of damage caused by the disaster to the place(s) where he performed such services or to the means of transportation so that he cannot reach such place(s), or because of such other reasons as that necessary material, supplies, or personnel cannot reach his place(s) of work.

(4) He was to begin working for another as an employee or in self-employment in the major disaster area when or after the major disaster began and can not do so as the result of the disaster;

(5) He had been unemployed at the time of the major disaster for a period of less than 10 weeks and is prevented from obtaining work in the major disaster area as the result of the disaster;

(6) He had completed his schooling or training for work no earlier than 10 weeks prior to the major disaster and is prevented from obtaining work in the

major disaster area as the result of the disaster;

(7) He has become the head of a household and is seeking suitable work because the head of the household died as the result of the major disaster in the major disaster area; or

(8) He, on any other basis, is found by the State agency to be unemployed as the result of the major disaster in the major disaster area, in which case the State agency shall notify the Associate Manpower Administrator for Unemployment Insurance, Room 5102, Main Labor Building, Washington, D.C. 20210, of the facts and the basis for its finding and shall obtain his approval before disaster unemployment assistance is paid to the individual.

(b) In connection with applications for disaster unemployment assistance for past weeks of unemployment, the criteria in paragraph (a) of this section for determining whether the applicants' unemployment was the result of a major disaster in the major disaster area shall be deemed to be written as to apply to such past weeks.

§ 625.9 Amount.

(a) *Weekly amount.* (1) In all the States except Guam, American Samoa, and the Trust Territory of the Pacific Islands the disaster unemployment assistance payable to an applicant for a week of total unemployment shall be whichever of the following is the greater:

(i) The amount of the average weekly regular unemployment compensation payment (including allowances for dependents) in the State in which the major disaster occurred as the result of which the individual became unemployed, computed by dividing the amount of regular unemployment compensation for total unemployment paid by the State in the first four of the last five completed calendar quarters immediately preceding the quarter in which the disaster began, by the number of weeks of total unemployment for which regular unemployment compensation was paid in that period. The computed average, if not an exact dollar amount, shall be rounded to the next higher dollar.

(ii) The weekly amount he would have been entitled to under the State law for a week of total unemployment had his work and wages been included as employment and wages under such State law.

(2) In Guam the disaster unemployment assistance payable to an applicant for a week of total unemployment shall be the average of the payments of regular unemployment compensation made by all States (except the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands) for weeks of total unemployment in the first four of the last five completed calendar quarters immediately preceding the quarter in which the disaster began.

(3) In American Samoa and the Trust Territory of the Pacific Islands the disaster unemployment assistance payable to an applicant for a week of total un-

employment shall be \$10 (the basic training allowance payable in the Island of Panape under the Manpower Development and Training Act of 1962, as amended).

(b) *Maximum amount.* Except as provided in paragraph (d) of this section, the maximum amount of disaster unemployment assistance payable to an applicant—

(1) If his disaster assistance period is the 1-year period specified in § 625.2(f), shall be the weekly amount provided pursuant to paragraph (a) of this section multiplied by the maximum number of weeks of regular unemployment compensation for total unemployment payable to any claimant under the applicable State law, except that in Guam, American Samoa, and the Trust Territory of the Pacific Islands the maximum amount of such disaster unemployment assistance shall be the weekly amount provided pursuant to paragraph (a) of this section multiplied by 26; or

(2) If his disaster assistance period is a period of less than 1 year determined pursuant to § 625.2(f), shall be the weekly amount provided pursuant to paragraph (a) of this section multiplied by the number of weeks in his disaster assistance period, but in no event more than the maximum amount computed in accordance with subparagraph (1) of this section.

(c) *Deductions.* The disaster unemployment assistance payable to an applicant for a week shall be reduced by:

(1) The amount of any of the following that an applicant has received for the week or would receive for the week if he filed a claim or application therefor and took all procedural steps necessary under the appropriate law or insurance policy:

(i) Regular unemployment compensation, additional unemployment compensation, extended unemployment compensation, or

(ii) Trade readjustment allowance under the Trade Expansion Act of 1962 or the Automotive Products Trade Act of 1965, or

(iii) Any compensation or insurance from any source for loss of wages due to illness or disability, or

(iv) A supplemental unemployment benefit pursuant to a collective bargaining agreement, or

(v) Training allowance under the Manpower Development and Training Act of 1962 (other than transportation and subsistence payments), or

(vi) Private income protection insurance.

(2) The amount of a retirement pension or annuity under a public or private retirement plan or system (including title II of the Social Security Act) prorated, where necessary, by weeks, but only if, and to the extent that, such amount would be deducted from unemployment compensation payable under the applicable State law;

(3) 75 percent of any wages in excess of \$5 payable to him with respect to such week.

(d) *Subsequent disaster assistance period.* If, when an individual establishes a subsequent disaster assistance period, he has not exhausted the disaster unemployment assistance payable to him with respect to his disaster assistance period, any remaining entitlement as the result of the previous major disaster shall be canceled and any payment for weeks of unemployment thereafter shall be with respect to the subsequent disaster assistance period under the new major disaster and in accordance with the weekly and maximum amount of disaster unemployment assistance payable with respect to such subsequent period.

§ 625.10 Disclosure of information.

Information obtained by a State agency in the administration of the disaster-unemployment assistance program shall be kept confidential and may be disclosed only to the same extent and in the same manner as information obtained by such State agency in administering its State law, or in the case of a State that has no State law, to the same extent and in the same manner as information obtained by the State agency of Hawaii under the Hawaii Employment Security Law.

§ 625.11 Determinations.

(a) Upon the filing of an initial application the State agency shall determine an applicant's eligibility for disaster unemployment assistance, his disaster assistance period, the amount payable to him for each week of his unemployment and the maximum amount payable to him during such period.

(b) The State agency shall give notice in writing to the applicant of any determination under paragraph (a) of this section and any subsequent determination denying or reducing the disaster unemployment assistance payable to him for a week. Such notice shall include a statement of his right to reconsideration or review, and the manner in which such reconsideration or review may be obtained, and if there has been a denial or reduction, the statement shall include the reasons for such denial or reduction. Notice of a determination shall be given to the applicant by delivering the notice to him personally or by mailing it to his last known address. Any information the applicant may receive as to his entitlement to disaster unemployment assistance prior to his receipt of this notice is not a determination and the applicant shall be so informed at the time he files his initial application.

§ 625.12 Reconsideration and review.

(a) *States, except Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.* Any determination by a State agency, other than that of the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, made pursuant to § 625.11 may be reconsidered by the State agency and may be appealed by the applicant under the State law to the first stage State administrative appellate authority under the State's regular appellate procedures. Notice of the recon-

sidered determination or the decision on appeal, and the reasons therefor, shall be given to the applicant by delivering the notice to him personally or by mailing it to his last known address. Such notice shall contain information as to the applicant's right to review by the appropriate Regional Manpower Administrator and the manner of obtaining such review, including the name and address of such Administrator. Notice of the decision on appeal shall be given also to the State agency and to the appropriate Regional Manpower Administrator.

(b) *The Virgin Islands.* In the case of an appeal by an applicant from a determination by the State agency of the Virgin Islands, the applicant shall be entitled to a hearing and decision in accordance with the procedures set forth in §§ 609.34-609.45 of this chapter by a referee appointed by the Secretary. Notice of the referee's decision, and the reasons therefor, shall be given to the applicant by delivering the notice to him personally or by mailing it to his last known address. Such notice shall contain information as to the applicant's right to review by the Regional Manpower Administrator for Region II (New York) and the manner of obtaining such review, including the address of such Administrator. Notice of the decision on appeal shall be given also to the State agency and to the appropriate Regional Manpower Administrator.

(c) *Guam, American Samoa, and the Trust Territory of the Pacific Islands.* In the case of an appeal by an applicant from a determination by the State agency of Guam, American Samoa, or the Trust Territory of the Pacific Islands, the applicant shall be entitled to a hearing and decision in accordance with the procedures set forth in §§ 609.34-609.45 of this chapter by a referee appointed by the Secretary. Notice of the referee's decision, and the reasons therefor, shall be given to the applicant by delivering the notice to him personally or by mailing it to his last known address. Such notice shall contain information as to the applicant's right to review by the Regional Manpower Administrator for Region IX (San Francisco) and the manner of obtaining such review, including the address of such Administrator. Notice of the decision on appeal shall be given also to the State agency, and to the appropriate Regional Manpower Administrator.

(d) *Review by the Regional Manpower Administrator.* The appropriate Regional Manpower Administrator, upon request for review by an applicant or a State agency, shall, or upon his own motion, may, review a decision rendered pursuant to paragraph (a), (b), or (c) of this section. Any request to the Regional Manpower Administrator by an applicant or a State agency shall be filed, and any review by the Regional Manpower Administrator on his own motion shall be undertaken, within 15 days after notice of the decision rendered pursuant to paragraph (a), (b), or (c) of this section has been given. Requests for review by an applicant shall be filed through the appropriate State agency for transmittal to the Regional Manpower

Administrator for the region in which the State is located. Requests for review by the State agency shall be filed with such Regional Manpower Administrator and a copy shall be mailed promptly to the applicant at his last known address. When a Regional Manpower Administrator undertakes a review on his own motion, he shall promptly so notify, by mail, the applicant at his last known address, and the State agency. Upon receipt of a request for review by an applicant or the State agency, or when the Regional Manpower Administrator so requests, the State agency shall forward the entire record to the Regional Manpower Administrator. The decision of the Regional Manpower Administrator shall be rendered within 15 days after his receipt of the record from the State agency and notice of such decision shall be mailed promptly to the last known address of the applicant and to the State agency. The decision of the Regional Manpower Administrator shall be final and conclusive.

§ 625.13 Overpayments.

(a) *Recovery.* If a State agency finds, after affording an applicant a reasonable opportunity for a fair hearing that he has been paid disaster unemployment assistance to which he is not entitled, such applicant shall be liable to repay such amount to the State agency. The State agency shall take such measures as it believes appropriate to recover such amount including deductions from any future disaster unemployment assistance payable to such applicant.

(b) *Criminal prosecutions for fraud.* The provisions of 18 U.S.C. 1001 are applicable to the disaster unemployment assistance program.

§ 625.14 Reports to the Secretary.

In addition to such other reports as may be required by the Secretary, within 60 days after all payments of disaster unemployment assistance as the result of a major disaster in the State have been made the State agency shall submit a report to the Secretary. This report shall contain a narrative summary, a chronological list of significant events, pertinent statistics about the disaster unemployment assistance provided to disaster victims, brief statements of major problems encountered, discussion of lessons learned, and suggestions for improvement of the program during future major disasters.

§ 625.15 Inquiry.

Pursuant to Article IV of the agreement between the several States and the Secretary for the payment of disaster unemployment assistance, the Secretary shall, if there is evidence that a State agency may not have complied or is not complying with the agreement, these regulations, or instructions issued pursuant to the regulations, direct an inquiry to be made to determine the facts and a report thereon to be made to him. Upon receipt of the report the Secretary shall take such action as he deems to be appropriate in the circumstances.

[FR Doc.71-16387; Filed 10-21-71; 8:40 am]

Title 7—AGRICULTURE

Chapter III—Agricultural Research Service, Department of Agriculture

PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—European Chafer

REGULATED AREAS

Under the authority of § 301.77-2 of the European Chafer Quarantine regulations, 7 CFR 301.77-2, as amended, a supplemental regulation designating regulated areas, 7 CFR 301.77-2a, is hereby amended as follows:

a. In § 301.77-2a relating to the State of Massachusetts, under generally infested area, the County of Essex is revised to read as follows:

MASSACHUSETTS

(1) Generally infested area.

Essex County. The towns of Lynnfield and Saugus, and the cities of Lynn and Peabody.

b. In § 301.77-2a relating to the State of New York, under generally infested area, the counties of Erie, Oneida, Onondaga, Seneca, Steuben, and Ulster are revised to read as follows:

NEW YORK

(1) Generally infested area. * * *

Erie County. The towns of Amherst, Cheektowaga, Clarence, Grand Island, Hamburg, Lancaster, Tonawanda, and West Seneca, and the cities of Buffalo, Lackawanna, and Tonawanda.

Oneida County. The towns of Marcy, New Hartford, Westmoreland, and Whitestown, and the cities of Rome and Utica.

Onondaga County. The towns of Camillus, Cicero, Clay, De Witt, Elbridge, Geddes, Ly-sander, Manlius, Marcellus, Onondaga, Salina, Skaneateles, and Van Buren, and the city of Syracuse.

Seneca County. The towns of Fayette, Junius, Romulus, Seneca Falls, and Tyre, the village and town of Waterloo, and the city of Seneca Falls.

Steuben County. The towns of Corning and Hornellsville, and the cities of Corning and Hornell.

Ulster County. The towns of Marbletown, Rochester, Ulster, and Wawarsing, and the city of Kingston.

c. In § 301.77-2a relating to the State of Pennsylvania, under generally infested area, the county of Lehigh is revised to read as follows:

PENNSYLVANIA

(1) Generally infested area. * * *

Lehigh County. The townships of Hanover and Whitehall, the boroughs of Catasauqua, Coplay, and Emmaus, and the city of Allentown.

(Secs. 8 and 9, 37 Stat. 318, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150e; 29 F.R. 16210, as amended)

This amendment of the European chafer regulated areas shall become ef-

fective upon publication in the FEDERAL REGISTER (10-22-71).

The Director of the Plant Protection Division has determined that infestations of the European chafer exist or are likely to exist in the civil divisions and parts of civil divisions listed above, or that it is necessary to regulate such areas because of their proximity to European chafer infestations or their inseparability for quarantine enforcement purposes from European chafer infested localities. The Director has further determined that each of the quarantined States is enforcing a quarantine or regulation with restrictions on intrastate movement of the regulated articles substantially the same as the restrictions on interstate movement of such articles imposed by the quarantine and regulations in this subpart, and that designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of the European chafer. Accordingly, such civil divisions and parts of civil divisions listed above are designated as European chafer regulated areas.

This amendment extends the regulated area in the previously regulated counties of Essex in Massachusetts, Lehigh in Pennsylvania, and Oneida, Seneca, Steuben, and Ulster in New York.

This document imposes restrictions that are necessary in order to prevent the dissemination of the European chafer and should be made effective promptly to accomplish its purpose in the public interest. Accordingly, it is found upon good cause, under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to the foregoing regulation are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Hyattsville, Md., this 18th day of October 1971.

J. F. SPEARS,
Acting Director,
Plant Protection Division.

[FR Doc.71-15416 Filed 10-21-71;8:48 am]

Title 18—CONSERVATION OF POWER AND WATER RESOURCES

Chapter II—Tennessee Valley Authority

PART 301—PROCEDURES

PART 304—APPROVAL OF CONSTRUCTION IN THE TENNESSEE RIVER SYSTEM AND REGULATION OF STRUCTURES

Miscellaneous Amendments

On August 14, 1971, a notice of proposed rule making was published in the FEDERAL REGISTER (F.R. Doc. 71-11758) concerning approval of construction in the Tennessee River system and regulation of structures. Public comment was

requested on the proposal to revoke the existing provisions of 18 CFR 301.2 and 301.3, and to adopt a new Part 304 containing the regulations as revised.

Comments were received from interested parties, including Federal and State agencies, commercial boat dock owners, sportsmen's and boating organizations, and private individuals. In light of the comments received, the proposed regulations were revised, and, as revised, have been adopted by the Board of Directors of the Tennessee Valley Authority. A description of the principal revisions follows:

1. *Metal drum flotation.* The majority of the comments received concerned the proposed limitation of metal drum flotation. Most commentators, including all the State and Federal agencies, favored the restriction. The grounds most frequently stated were control of possible water pollution, boating and water safety, and aesthetics. The most frequent reason given in opposition to the proposed ban was the cost of alternate methods. Several persons also stated that they had had existing metal drum flotation filled with plastic foam as permitted by existing regulations and that they felt it was unfair to require that it now be changed.

TVA believes that the factors of pollution control and boating and water safety require a limitation on the use of empty metal drum flotation, despite the cost and inconvenience which this may impose on certain individuals. As a matter of equity, persons have already incurred the costs of changing over to other methods in reliance on the regulations, during the 4-year period since TVA announced the policy. However, in light of the comments received, the regulations have been revised to permit the continued use, on existing facilities, of metal drums which have been filled with plastic foam or other solid flotation material and installed prior to July 1, 1972: *Provided*, That the drums have never contained toxic or polluting substances. Beginning July 1, 1972, no new installations of filled metal drums will be allowed and any replacements of filled drums after that date must be by some other type of permitted flotation device.

2. *Time limits.* Several commentators suggested an extension of the January 1, 1972, deadline for replacement of flotation. Because of the revisions in the types of permitted flotation, and because an extension through the spring will permit both another "wet" and a "dry" period for changing flotation devices and performing other necessary work, the deadline for changing over to approved flotation on existing facilities has been extended through June 30, 1972. The deadline for submitting applications has been extended through December 31, 1971. Conforming changes have been made in other related time limits.

3. *Other changes.* Other miscellaneous changes have been made for clarity. In addition, a provision has been added as § 304.108(c), governing approvals of fixed boathouses and similar structures. The substance of this provision appears

as § 301.3(d) of the current regulations, and was inadvertently omitted from the text of the August notice.

Effective date. The regulations, revised as set out below, have been adopted effective thirty (30) days after publication in the FEDERAL REGISTER. Until such effective date, the provisions of present §§ 301.2 and 301.3 will continue in full force and effect.

In light of the foregoing, and pursuant to the Tennessee Valley Authority Act of 1933, as amended, 16 U.S.C. sections 831-831dd (1970), Part 301 is amended, and Part 304 is adopted as follows:

I. Part 301 of Title 18 is amended as follows:

§ 301.2 [Revoked]

1. Section 301.2 is revoked.

§ 301.3 [Revoked]

2. Section 301.3 is revoked.

II. A new Part 304 is added to read as follows:

Subpart A—General Requirements

Sec.	
304.1	Definitions.
304.2	Scope and intent.
304.3	Flotation devices and material.
304.4	Treatment of sewage.
304.5	Removal of unauthorized or unsafe structures.

Subpart B—Approval of Construction

304.100	Scope and intent.
304.101	Delegation of authority.
304.102	Application.
304.103	Contents of application.
304.104	Little Tennessee River; date of formal submission.
304.105	Determination of application.
304.106	Appeals.
304.107	Conduct of hearings.
304.108	Conditions of approvals.
304.109	Structures within the flowage easement areas of Fort Loudoun and Douglas Reservoirs.

Subpart C—Regulation of Boathouses, Houseboats, Similar Floating Structures, and Harbor Limits

304.200	Scope and intent.
304.201	Definitions.
304.202	Designation of harbor areas at commercial boat docks.
304.203	Houseboats.
304.204	Floating boathouses
304.205	Approval of plans for floating boathouses and nonnavigable houseboats.
304.206	Numbering and transfer of approved facilities.

AUTHORITY: The provisions of this Part 304 issued under 16 U.S.C. sections 831-831dd.

Subpart A—General Requirements

§ 304.1 Definitions.

Except as the context may otherwise require, the following words or terms, when used in this Part 304, have the meaning specified in this section.

"Act" means the Tennessee Valley Authority Act of 1933, as amended.

"Applicant" means the person, corporation, State, municipality, political subdivision or other entity making application.

"Application" means a written request for the approval of plans pursuant to sec-

tion 26a of the Act and the regulations contained in this part.

"Board" means the Board of Directors of TVA.

"Director" means the Director of the Division of Reservoir Properties of TVA.

"TVA" means the Tennessee Valley Authority.

§ 304.2 Scope and intent.

The Act among other things confers on TVA broad powers related to the unified conservation and development of the Tennessee River Valley and surrounding area and directs that property in TVA's custody be used to promote the Act's purposes. In particular, section 26a of the Act requires that TVA's approval be obtained prior to the construction, operation, or maintenance of any dam, appurtenant works, or other obstruction affecting navigation, flood control, or public lands or reservations along or in the Tennessee River or any of its tributaries. In the transfer or other disposition affecting shoreline lands within its custody, TVA has also retained land rights to carry out the Act's purposes including rights related to control of water pollution from the use of the land transferred. TVA uses and permits use of the lands and land rights in its custody alongside and adjacent to TVA reservoirs to carry out the purposes and policies of the Act. In addition, recent legislation, including the National Environmental Policy Act of 1969, 42 U.S.C. section 4321 et seq., and the Water Quality Amendments of 1970, Public Law 91-224, 84 Stat. 91, have declared congressional policy that agencies should administer their statutory authorities so as to restore, preserve and enhance the quality of the environment and should cooperate in the control of pollution. It is the intent of the regulations prescribed in this Part 304 to carry out the purposes of the Act and other statutes relating to these purposes, and this part shall be interpreted and applied to that end.

§ 304.3 Flotation devices and material.

(a) Because of the possible release of toxic or polluting substances, and the hazard to navigation from metal drums that become partially filled with water and escape from docks, boathouses, houseboats, floats, and other water-use structures and facilities for which they are used for flotation, the Board has prohibited use of metal drums in any form, except as authorized in paragraph (b) of this section, for flotation of any facilities requiring approval under this part before being constructed or placed on any TVA reservoir.

(b) Metal drums in use for flotation of existing facilities on TVA reservoirs must be replaced prior to July 1, 1972, with some type of permanent flotation device or material, for example, pontoons, boat hulls, or other buoyancy devices made of steel, aluminum, fiberglass, or plastic foam; provided, however, that metal drums which have been filled with plastic foam or other solid flotation materials and welded, strapped, or otherwise firmly secured in place prior to July 1, 1972, may continue to be used as

flotation on existing facilities. Replacement after July 1, 1972, of metal drum flotation permitted to be used by this subsection must be with some other form of permanent flotation device or material permitted under this paragraph (b), not including filled metal drums.

§ 304.4 Treatment of sewage.

No person operating a commercial boat dock on or over real property of the United States in the custody and control of TVA, or on or over real property subject to provisions for the control of water pollution in a deed, grant of easement, lease, license, permit or other instrument from or to the United States or TVA shall permit the mooring on or over such real property of any watercraft or floating structure equipped with a marine toilet unless such toilet is equipped with a treatment device, including holding tank, approved by the state in which the watercraft or floating structure is registered or regularly moored, or, in the absence of applicable state regulations, by TVA, nor shall any such watercraft or floating structure be moored on or over any such real property not within the TVA-designated harbor limits of a commercial boat dock without a similarly approved treatment device. However, such state or TVA approval shall be sufficient only until the effective date of the standards and regulations on marine sanitation devices to be promulgated by the Environmental Protection Agency and the Secretary of Transportation under section 13 of the Federal Water Pollution Control Act, as amended, compliance with which will thereafter be required.

§ 304.5 Removal of unauthorized or unsafe structures.

If, at any time, any dock, wharf, floating boathouse, nonnavigable houseboat, outfall, or other fixed or floating structure or facility anchored, installed, constructed, or moored under a license, permit, or approval from TVA is not constructed in accordance with plans approved by TVA, or is not maintained or operated so as to remain in accordance with such plans, or is not kept in a good state of repair and in good, safe, and substantial condition, and the owner or operator thereof fails to repair or remove such structure (or operate or maintain it in accordance with such plans) within ninety (90) days after written notice from TVA to do so, TVA may cancel such license, permit, or approval and remove such structure, or cause it to be removed, from the Tennessee River system and/or lands in the custody or control of TVA. Such written notice may be given by mailing a copy thereof to the owner's address as listed on the license, permit, or approval or by posting a copy on the structure or facility. TVA will remove or cause to be removed any such structure or facility anchored, installed, constructed, or moored without such license, permit, or approval, whether such license or approval has once been obtained and subsequently canceled, or whether it has never been obtained.

Subpart B—Approval of Construction

§ 304.100 Scope and intent.

Except as provided in § 304.109, special approval must be obtained with respect to each structure subject to section 26a of the Act prior to its construction, operation, or maintenance. This subpart prescribes procedures to be followed in any case where it is desired to obtain such approval.

§ 304.101 Delegation of authority.

Approval or disapproval of applications under this part is delegated to the Director, subject to appeal to the Board as provided in § 304.105, except that applications for structures subject to § 304.103(b) and not involving marine toilets are reserved to the Board for approval or disapproval. In his discretion the Director may submit any application to the Board for its approval or disapproval. Administration of the handling of applications is delegated to the Division of Reservoir Properties.

§ 304.102 Application.

Applications shall be addressed to Tennessee Valley Authority, Director of Reservoir Properties, Knoxville, Tenn. 37902.

§ 304.103 Contents of application.

(a) The application need not follow any prescribed form. Unless TVA specifies otherwise in writing, an application must be accompanied by four (4) complete sets of detailed plans for the construction, operation, and maintenance of the structure desired to be built, which shall include: (1) Accurate maps showing the exact location where the structure is proposed to be built, moored, or installed, (2) detailed plans, in scale, of the proposed structure, (3) detailed statements of the plans formulated for the maintenance and operation of the structure when completed, (4) sufficient information to describe adequately all of the persons, corporations, organizations, agencies, or others who propose to construct, own and operate such structure, and (5) a report of the anticipated environmental consequences resulting from the erection and operation of the proposed structure. This report of anticipated environmental consequences shall include a discussion of: (i) The probable impact of the proposed structure on the environment; (ii) any probable adverse environmental consequences which cannot be avoided; (iii) alternatives to the proposed structure; (iv) the relationship between the local short-term uses of the environment and the maintenance of long-term productivity which will result from the proposed structure; and (v) any irreversible or irretrievable commitments of resources which would be involved by virtue of the proposed structure.

(b) If construction, maintenance or operation of the proposed structure or any part thereof, or the conduct of the activity in connection with which approval is sought, may result in any discharge into navigable water of the United States, applicant shall also sub-

mit with the application, in addition to the material required by paragraph (a) of this section, a certification from the State in which such discharge would originate, or, if appropriate, from the interstate water pollution control agency having jurisdiction over the navigable waters at the point where the discharge would originate, or from the Environmental Protection Agency, that such State or interstate agency or the Environmental Protection Agency has determined after public notice of applicant's proposal that there is reasonable assurance that applicant's proposed activity will be conducted in a manner which will not violate applicable water quality standards. If construction or operation of the proposed structure will affect water quality but is not subject to any applicable water quality standards, applicant shall submit a written statement to that effect by such State, interstate agency, or the Environmental Protection Agency. The applicant shall further submit such supplemental and additional information as TVA may deem necessary for the review of the application, including, without limitation, information concerning the amounts, chemical makeup, temperature differentials, type and quantity of suspended solids, and proposed treatment plans for any proposed discharges.

(c) Detailed information concerning contents of applications, kinds and amounts of information required to be submitted for specific structures, and suggested forms which can be used are available at the address specified in § 304.102 or from the Manager of Properties, Division of Reservoir Properties, Tennessee Valley Authority, at one of the following district offices:

- (1) Western District, Post Office Box 280, Paris, TN 38242.
- (2) Southern District, 601 First Federal Building, Muscle Shoals, Ala. 35660.
- (3) Central District, Post Office Box 606, Athens, TN 37303.
- (4) Eastern District, Post Office Box 1236, Morristown, TN 37814.

§ 304.104 Little Tennessee River; date of formal submission.

As regards structures on the Little Tennessee River, applications are deemed by TVA to be "formally submitted" within the meaning of section 26a of the Act, on that date upon which applicant has complied in good faith with all of the provisions of paragraphs (a) and (b) of § 304.103.

§ 304.105 Determination of application.

(a) The Division of Reservoir Properties conducts preliminary investigations; coordinates the processing of applications within TVA; notifies the applicant if preparation and review of an environmental statement are required under the National Environmental Policy Act of 1969, and of what additional information must be submitted to TVA by applicant so that TVA may comply with the requirements of that statute and related legal requirements, and complete its review of the application; and arranges for notification to the Environmental Protection Agency of appli-

cations that request approval of plans for structures which may result in a discharge into navigable waters of the United States and are certified in accordance with the requirements of § 304.103(b).

(b) Hearings concerning approval of applications are conducted (in accordance with § 304.107) (1) when requested by the applicant, (2) when TVA deems that a hearing is necessary or appropriate in determining any issue presented by the application, (3) when required on the objection of another State under the provisions of section 21(b) (2) of the Federal Water Pollution Control Act, as amended, or (4) when required to determine the necessity for suspending a previously granted approval, under section 21(b)(4) of the Federal Water Pollution Control Act, as amended.

(c) Upon completion of the investigation, coordination of the review of water quality aspects of the application under the Federal Water Pollution Control Act, as amended, completion of review under the National Environmental Policy Act, if required, and hearing or hearings, if any, the Director approves or disapproves the application on the basis of the application and supporting papers, the report of investigation, the transcript of the hearing or hearings, if any be held, the recommendations of other agencies, the intent of this part, and the applicable provisions of the TVA Act, the Federal Water Pollution Control Act, the National Environmental Policy Act, and other applicable laws or regulations. In his discretion the Director may refer any application and supporting materials to the Board for its approval or disapproval.

(d) Promptly following determination, the Director or the Board furnishes a written copy of the decision to the applicant and to any parties of record pursuant to § 304.107. In the case of applications initially approved or disapproved by the Board, written requests for reconsideration may be made to the Board in the same manner as provided for appeals under § 304.106(a).

§ 304.106 Appeals.

(a) If the Director disapproves an application, the applicant may, by written request addressed to the Board of Directors, Tennessee Valley Authority, New Sprinkle Building, Knoxville, Tenn. 37902, and mailed within thirty (30) days after receipt of notification of such disapproval, obtain review by the Board of the determination of the Director disapproving the application.

(b) A party of record to any hearing before the Director who is aggrieved or adversely affected by any determination of the Director approving an application, may obtain review by the Board of such determination by written request addressed and mailed as provided in paragraph (a) of this section.

(c) Requests for review shall specify the reasons why it is contended that the Director's determination is in error.

(d) Following receipt of a request for review, the Board will review the material on which the Director's decision was based and may conduct or cause to be

conducted such investigation of the application as the Board deems necessary or desirable. The applicant and the person requesting review may submit additional written material in support of his position to the Board within thirty (30) days after receipt by TVA of the request for review. Based on the review, investigation, and written submissions provided for in this paragraph, the Board shall render its decision approving or disapproving the application.

(e) The Board will furnish a written copy of its decision in any review proceeding under this section to the applicant and to all parties of record promptly following determination of the matter.

§ 304.107 Conduct of hearings.

(a) If a hearing is to be held for any of the reasons described in § 304.105(b) TVA gives notice of the hearing to permit attendance by interested persons. Such notice may be given by publication in the FEDERAL REGISTER, publication in a daily newspaper of general circulation in the area of the proposed structure, personal written notice, or a combination of these methods. The notice indicates the place, date and time of hearing, so far as feasible indicates the particular issues to which the hearing will pertain, states the manner of becoming a party of record, and provides other relevant information. The applicant is automatically a party of record.

(b) Hearings may be conducted by the Director and/or such other person or persons as he may designate for that purpose. Hearings are public and are conducted in an informal manner. Parties of record may be represented by counsel or other persons of their choosing. Technical rules of evidence are not observed although reasonable bounds are maintained as to relevancy, materiality, and competency. Evidence may be presented orally or by written statement and need not be under oath. After the hearing has been completed, additional evidence will not be received unless it presents new and material matter that in the judgment of the person or persons conducting the hearing could not be presented at the hearing. Where construction of the project also requires the approval of another agency of the Federal Government by or before whom a hearing is to be held, the Director may arrange with such agency to hold a joint hearing.

§ 304.108 Conditions of approvals.

(a) Approvals of applications shall contain such conditions as are required by law. Approvals of applications may contain such other conditions as TVA deems necessary to carry out the provisions of the Act, the policy of related statutes, and the intent of this part.

(b) If an approval is granted under this subpart of a structure or facility with respect to which a certificate of compliance with applicable water quality standards has been obtained pursuant to section 21(b) (1) of the Federal Water Pollution Control Act, as amended, and no additional or other Federal permit or

license is required for operation of such structure or facility, the holder of the TVA approval shall, prior to initial operation of such structure or facility, provide an opportunity for the certifying state or, if appropriate, the interstate agency or the Environmental Protection Agency to review the manner in which the structure or facility will be operated or conducted, for the purpose of assuring that applicable water quality standards will not be violated.

(c) Applications for fixed boathouses, piers, or docks will be disapproved if the plans provide for toilets, living or sleeping quarters, or any type of enclosed floor space in excess of 25 square feet, not including walkways around boat wells or mooring slips. Such walkways shall not exceed 4 feet in width unless, in the sole judgment of the Director, the size of the well or slip justifies a greater width. For the purposes of this subsection, "fixed boathouse" means any fixed structure or facility which includes enclosed space of any kind and is capable of mooring or storing any houseboat or other vessel: *Provided*, That floor space shall not be deemed "enclosed" solely because of plans providing for the use of wire mesh or similar screening which leaves the interior of the structure or facility open to the weather: *And, provided, further*, That nothing contained in this paragraph shall be construed as prohibiting enclosure of the boat well or mooring slip proper. In the case of applications for piers or docks to be used as part of a public boat dock, marina, or other public or commercial recreation facility, the requirements of this paragraph (c) may be waived or modified by the Director if he considers such waiver necessary or desirable for proper development of the facility.

§ 304.109 Structures within the flowage easement areas of Fort Loudoun and Douglas Reservoirs.

(a) The regulations prescribed in this paragraph apply to approval of structures, other than fills, to be constructed on land which is subject to flowage easements acquired by the United States and which lies above elevation 815 (expressed in feet above mean sea level) in the Fort Loudoun Reservoir on the Tennessee River and above elevation 1,002 in the Douglas Reservoir on the French Broad River, a tributary of the Tennessee River:

(1) Structures or groups of structures (defined as two or more structures constituting a project) proposed for construction on such land which are not designed for human habitation, do not involve discharges in the reservoirs, and are to be constructed at a cost not in excess of \$5,000, may be so constructed without applying to the Director for approval under this subpart.

(2) Structures or groups of structures proposed for construction on such land which are not designed for human habitation, do not involve discharges into the reservoirs, are not major actions significantly affecting the quality of the human environment and are to be constructed at a cost in excess of \$5,000,

and which the Director finds will not be damaged seriously when flooded, will not require approval under this subpart and may be constructed after receipt of notice from the Division of Reservoir Properties that, in the opinion of the Director, the property will not be seriously damaged when flooded.

(b) All other structures or groups of structures proposed for construction on land in the Fort Loudoun and Douglas Reservoirs which is subject to flowage easements acquired by the United States will constitute obstructions affecting navigation, flood control, or public lands or reservations, and require approval in accordance with section 26a of the Act and the requirements of this subpart. Nothing contained in this section shall be in derogation of the rights of the United States or TVA, or their exercise of such rights, under the flowage easements in the Fort Loudoun and Douglas Reservoirs owned by the United States.

Subpart C—Regulation of Boathouses, Houseboats, Similar Floating Structures, and Harbor Limits

§ 304.200 Scope and intent.

This subpart prescribes regulations governing designation of harbor areas at commercial boat docks and the approval of structures and facilities which can be moored or installed in or at such areas and in other areas in the Tennessee River and its tributaries. It is the intent of this subpart to provide for the mooring of new and existing floating boathouses and existing houseboats in such a manner as to avoid obstruction of or interference with navigation and flood control, avoid or minimize adverse effects on public lands and reservations, attain the widest range of beneficial uses of land and land rights owned by the United States of America, enhance reasonable recreational use of TVA reservoirs by all segments of the general public, protect lands and land rights owned by the United States alongside and subjacent to TVA reservoirs from trespass and other unlawful or unreasonable uses, and maintain, protect, and enhance the quality of the human environment.

§ 304.201 Definitions.

For the purposes of this subpart, in addition to any definitions contained elsewhere in this part, the following words or terms shall have the meaning specified in this section, unless the context requires otherwise:

"Existing" as applied to houseboats, floating boathouses, or other structures, means those which are moored, anchored, or otherwise installed on, along, or in a TVA reservoir on the effective date of these regulations.

"Floating boathouse" means a floating structure or facility, any portion of which is enclosed, capable of storing or mooring any houseboat or other vessel.

"Houseboat" means any vessel which is equipped with enclosed or covered sleeping quarters.

"Navigable houseboat" means a houseboat which is (a) on a boat hull, pontoons, or other comparable permanent

flotation devices (not including metal drums) manufactured, constructed, or adapted for the purpose of providing flotation and mobility for a boat or houseboat; (b) equipped with a motor of sufficient horsepower to propel the houseboat safely and under full control under normal wind and water conditions; (c) equipped with motor and rudder controls with which the houseboat must be operated, which controls must be located at a point on the houseboat from which there is not less than 180° forward visibility; and (d) in compliance with all State and Federal requirements relating to watercraft.

"New" as applied to houseboats, floating boathouses, or other structures means all houseboats, floating boathouses, or structures, other than existing ones.

"Nonnavigable houseboat" means a houseboat not in compliance with one or more of the criteria defining a navigable houseboat.

"Vessel" means any watercraft or other structure or contrivance used or capable of use as a means of water transportation.

§ 304.202 Designation of harbor areas at commercial boat docks.

The landward limits of harbor areas are determined by the extent of land rights held by the dock operator. The lakeward limits of harbors at commercial boat docks will be designated by TVA on the basis of the size and extent of facilities at the dock, navigation and flood control requirements, optimum use of lands and land rights owned by the United States, and on the basis of the environmental effects associated with the use of the harbor. Mooring buoys or slips and indefinite anchoring are prohibited beyond such lakeward limits, except as otherwise provided in this subpart.

§ 304.203 Houseboats.

(a) No new nonnavigable houseboat shall be moored, anchored, or installed in any TVA reservoir after the effective date of this Part 304.

(b) Existing nonnavigable houseboats may remain in TVA reservoirs after the effective date of this part only if (1) they have flotation devices complying with § 304.3; (2) they are approved and numbered pursuant to §§ 304.205 and 304.206; and (3) they are moored in compliance with paragraph (c) of this section.

(c) Existing nonnavigable houseboats shall be moored in compliance with this paragraph not later than July 1, 1972. Existing nonnavigable houseboats shall be moored:

(1) To mooring facilities provided by a commercial dock operator within the designated harbor limits of his dock; or

(2) To the bank of the reservoir outside the designated harbor limits of commercial boat docks, if the houseboat owner is the owner or lessee of the abutting property at the mooring location (or the licensee of such owner or lessee) and has requested and obtained from TVA, pursuant to § 304.205, written ap-

proval authorizing mooring at such location.

(d) Ordinary maintenance and repair of existing nonnavigable houseboats permitted to be moored pursuant to this section may be continued, including replacement of metal drum flotation as required by § 304.3, but such houseboats may not be replaced, rebuilt, or returned to the reservoir when they have been abandoned, destroyed, removed from the reservoir, or have deteriorated or been damaged so as to be unusable and unrepairable.

§ 304.204 Floating boathouses.

(a) New floating boathouses may be moored in TVA reservoirs after the effective date of this Part 304 only if (1) they are approved and numbered pursuant to §§ 304.205 and 304.206, and (2) they are moored in compliance with paragraph (c) of this section.

(b) Existing floating boathouses may be moored in TVA reservoirs after the effective date of this Part 304 only if (1) they have flotation devices complying with § 304.3; (2) they are approved and numbered pursuant to §§ 304.205 and 304.206; and (3) they are moored in compliance with paragraph (c) of this section.

(c) Existing floating boathouses shall be moored in compliance with this paragraph not later than July 1, 1972. New floating boathouses shall be originally moored in compliance with this paragraph. All floating boathouses shall be moored:

(1) To mooring facilities provided by a commercial dock operator within the designated harbor limits of his dock; or

(2) To the bank of the reservoir outside the designated harbor limits of a commercial boat dock, if the boathouse owner is the owner or lessee of the abutting property at the mooring location (or the licensee of such owner or lessee) and has requested and obtained from TVA, pursuant to § 304.205, written approval authorizing mooring at such location.

(d) Ordinary maintenance and repair of existing floating boathouses permitted to be moored pursuant to this section may be continued, including replacement of metal drum flotation as required by § 304.3, but such floating boathouses may not be replaced, rebuilt, or returned to the reservoir when they have been abandoned, destroyed, or removed from the reservoir, or have deteriorated or been damaged so as to be unusable or unrepairable. Existing floating boathouses may be replaced with new floating boathouses subject to the provisions of this part.

§ 304.205 Approval of floating boathouses and nonnavigable houseboats.

(a) Existing nonnavigable houseboats and all floating boathouses must be approved pursuant to this subpart and the provisions of Subpart B of this part.

(b) Persons proposing to moor new floating boathouses shall submit applications to TVA prior to commencement of construction or mooring thereof. Owners

of existing floating boathouses and non-navigable houseboats who intend to continue mooring beyond June 30, 1972, shall submit applications to TVA prior to January 1, 1972. Applications shall be accompanied by plans showing in reasonable detail the size and shape of the facility; the kind of existing flotation device, and actual and proposed mooring locations thereof; indicate whether a marine toilet is on the facility; and give the name and mailing address of the owner. If the existing flotation device includes metal drums in any form, the application shall indicate the kind of flotation device or material which shall be used to replace such metal drum flotation pursuant to § 304.3 and the date by which such replacement shall be completed. If flotation devices incorporating filled metal drums are proposed to be continued in use after July 1, 1972, the application shall indicate generally the kind of flotation device (permitted by § 304.3) which is proposed to be used for replacement purposes after such date. TVA will be kept advised of any changes in the kind of flotation devices which may be made by the applicant after approval is granted. Plans described in this section shall be in lieu of the plans specified in § 304.103(a).

(c) If the proposed mooring location is outside the designated harbor limits of a commercial boat dock, the application and plans shall be accompanied by evidence satisfactory to TVA showing that the applicant is (or will be prior to July 1, 1972) the owner or lessee of the abutting property at the proposed mooring location, or the licensee of such owner or lessee.

(d) Applications for new floating boathouses will be disapproved if the plans provide for toilets, living or sleeping quarters, or enclosed spaces with more than 25 square feet of floor space, not including walkways around boat wells or mooring slips. Such walkways shall not exceed 4 feet in width unless, in the sole judgment of the Director, the size of the well or slip justifies a greater width. A new floating boathouse or part thereof shall not be deemed "enclosed" solely because of plans providing for the use of wire mesh or similar screening which leaves the interior of the structure open to the weather and nothing contained in this subsection shall be construed as prohibiting enclosure of the boat well or mooring slip proper. Plans for any new floating boathouses will also be disapproved if the proposed flotation device includes metal drums in any form.

(e) Applications for mooring outside designated harbor limits will be disapproved if TVA determines that such proposed mooring location will be contrary to the intent of this subpart, of § 304.2, or of any applicable law. Applications will also be disapproved if marine toilets not in compliance with § 304.4 are involved.

(f) Approvals of applications shall contain such conditions as may be required by law and may contain such other conditions as TVA determines to be necessary or desirable to carry out the

intent of this subpart, this part or other applicable law. Included, without limitation, among such conditions are conditions relating to the mooring of houseboats and floating boathouses at locations outside the designated harbor limits of commercial boat docks. Strict compliance with all conditions will be required.

§ 304.206 Numbering and transfer of approved facilities.

(a) Upon approval of an application concerning a nonnavigable houseboat or floating boathouse, TVA will assign a number to such facility. The owner of the facility shall paint such number on, or attach a facsimile thereof to, a readily visible part of the outside of the facility in letters not less than three (3) inches high, by July 1, 1972. The placement of such number shall be consistent with the requirements of any State or Federal law or regulation concerning numbering of watercraft.

(b) The transferee of any floating boat-house or nonnavigable houseboat approved pursuant to this part and which, after transfer, remains subject to this part, shall promptly report such transfer to TVA. A facility moored at a location approved pursuant to this part shall not be moored at a different location without prior approval of such location by TVA under this subpart, except for transfers of location to or between mooring facilities provided by commercial dock operators within the designated harbor limits of their docks.

Dated: October 14, 1971.

LYNN SEEBER,
General Manager.

[FR Doc. 71-15380 Filed 10-21-71; 8:46 am]

Title 28—JUDICIAL ADMINISTRATION

Chapter I—Department of Justice

[Order 468-71]

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

Delegation of Authority Under the Airport and Airway Development Act of 1970

Under the Airport and Airway Development Act of 1970 (84 Stat. 232; 49 U.S.C. 1723), the approval of the Attorney General is required for executing a conveyance of Federal land for airport purposes. This order delegates the Attorney General's approval authority to the Assistant Attorney General, Land and Natural Resources Division. The order revises 28 CFR 0.67 which delegated similar authority under the prior law. (Section 16 of the Federal Airport Act of 1946, 60 Stat. 179.)

By virtue of the authority vested in me by 5 U.S.C. 301 and 28 U.S.C. 509, 510, § 0.67 of Subpart M of Part 0 of Chapter I of Title 28, Code of Federal Regulations, is revised to read as follows:

§ 0.67 Delegation respecting conveyances for public-airport development.

The Assistant Attorney General in charge of the Land and Natural Resources Division, and such members of his staff as he may specifically designate in writing, are authorized to exercise the power and authority vested in the Attorney General by section 23(b) of the Airport and Airway Development Act of 1970 (84 Stat. 219; 49 U.S.C. 1723) with respect to approving the performance of acts and execution of instruments necessary to make the conveyances requested in carrying out the purposes of that section, except those acts and instruments which, in the opinion of the Assistant Attorney General, involve questions of policy or for any other reason require the personal attention of the Attorney General.

Dated: October 9, 1971.

JOHN N. MITCHELL,
Attorney General.

[FR Doc. 71-15382 Filed 10-21-71; 8:46 am]

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

Chapter 5A—Federal Supply Service, General Services Administration

PART 5A-16—PROCUREMENT FORMS

PART 5A-73—FEDERAL SUPPLY SCHEDULE PROGRAM

Composition of Federal Supply Schedules and Updated Exhibits of FS Schedule Cover Pages

The table of contents for Part 5A-16 is amended to delete the current entries for § 5A-16.950-1797 and to insert the following new entries:

Sec.	
5A-16.950-1797	GSA Form 1797, Basic Cover Sheet for Federal Supply Schedules, Amendments, and Notice to Ordering Offices.
5A-16.950-1797(a)	Sample Schedule Cover.
5A-16.950-1797(b)	Sample Amendment Cover.
5A-16.950-1797(c)	Sample Notice to Ordering Office Cover.

The table of contents of Part 5A-73 is amended by revision of the following entries:

Sec.	
5A-73.124-2	Page heading and page numbering.
5A-73.124-4	Information for ordering offices.
5A-73.124-6	[Reserved]
5A-73.124-7	List of supplies or services.

Subpart 5A-73.1—Production and Maintenance

Sections 5A-73.124-1, 5A-73.124-2, 5A-73.124-3, 5A-73.124-4, 5A-73.124-5, 5A-73.124-6, and 5A-73.124-7 are revised as follows:

§ 5A-73.124-1 Schedule cover page.

The cover or title page shall contain (a) The schedule period; (b) FSC group number, part number (if any), section (if any), supplement number (if any), and the commodities covered by the schedule; (c) the title, Federal Supply Schedule; (d) amendment number (if any); (e) a block containing instructions on how to obtain copies of Federal Supply Schedules; (f) breakdown of commodities by classes (if any); (g) complete address of the issuing office including the correspondence symbol of the commodity section or regional procurement division and telephone number; (h) listing of agencies designated as "Primary Users" and the geographic coverage stated under "Scope of Contract"; (i) the names of the President of the United States, the Administrator of General Services, the Commissioner, Federal Supply Service; and (j) other information as necessary (see § 5A-16.950-1797 for illustration of the basic cover page).

§ 5A-73.124-2. Page heading and page numbering.

The inside page of schedules shall show the FSC group number, part number, etc., issuing office, and schedule period across the top of the page. Pages shall be numbered at top center beginning with No. 2 on the reverse of the cover page.

§ 5A-73.124-3 Reference to general and supplemental provisions.

Page 2 (see § 5A-73.124-2) shall contain the following notice:

IMPORTANT NOTICE

Contractors listed herein are subject to the provisions of Standard Form 33, General Provisions (supply contract), _____ (Enter date)

edition, and GSA Form 1424, GSA Supplemental Provisions _____ edition. (Enter date)

Exceptions to these provisions, if any, are shown immediately following, under the title "Exceptions."

§ 5A-73.124-4 Information for ordering offices.

The notice prescribed in § 5A-73.124-3, above, shall be followed by a section entitled "Information for Ordering Offices" which shall include the following information and other details applicable to the particular schedule.

INFORMATION FOR ORDERING OFFICES

1. *Standard Instructions.* Ordering offices should consult the current issue of the Guide to Sources of Supply and Service, section 1-VI-F, for standard instructions on the use of Federal Supply Schedules. Section 1-VI-F contains information regarding the placing of orders, inspection, delinquent deliveries, etc.

2. *How to Obtain Additional Information.* Additional information may be obtained by writing or telephoning the General Services Administration, Federal Supply Service (enter name and address of office issuing the Schedule, zip code, and telephone number(s) where contracting officer may be reached).

3. *Items Not Supported by Specifications.* To GSA's knowledge, certain items on this

Federal Supply Schedule may not be covered by Federal or other adequate Government specifications and the quality of the items has not been approved. Therefore, no determination has been made that they have the optimum characteristics to meet established definitive needs. No test methods or test requirements have been established by the Government. Any agency ordering from this Schedule must, therefore, determine whether the item will meet its requirements and that upon receipt the item meets contract provisions.

4. Complaints.

Quality Complaints. Complaints concerning the quality of material which has been inspected at origin shall be addressed to the order processing and control activity in the GSA region serving the geographic area in which the defective material is located. Complaints concerning items inspected at destination shall be resolved between the agency and the contractor.

Other Complaints. Complaints concerning other than the quality of the material (e.g., overages, shortages, damages or other discrepancies in the quantity or condition of the property received) shall be:

(1) Processed in accordance with FPMR 101-40.7 when there exists any variation in quantity or condition received from that shown on the covering bill of lading.

(2) Resolved between the ordering agency and the contractor when there exists any variation in quantity or condition received as compared with that shown on the invoice or shipment packing list.

5. Inspection.

(NOTE TO CONTRACTING OFFICER: Indicate here whether origin or destination inspection applies. If origin inspection applies, incorporate the following provisions:)

A. Quality Control Origin Inspection. This Schedule provides for inspection at origin. Ordering offices shall follow the following special instructions. These instructions apply to all items listed in this Schedule, except for the following items (if any), which will be inspected at destination:

B. Origin Inspection. Purchase orders placed under this Schedule and listing items which are to be inspected at origin shall state specifically that origin inspection will be made by the responsible GSA Quality Control Division prior to shipment. To advise the responsible GSA regional office that origin inspection is to be conducted, ordering offices shall forward two legible, copies of each purchase order placed under this Schedule to the responsible GSA regional Quality Control Division. Addresses of GSA regions and the areas which each services are shown in the current GSA Stock Catalog.

C. Multiple Inspection Points. Where multiple origin inspection points are provided for the same item, ordering offices shall proceed as follows: Prior to issuance of purchase order, determine the origin inspection point and the GSA regional Quality Control Division responsible for providing quality control and contract administration by obtaining from the contractor the locations where the items will be offered for origin inspection.

§ 5A-73.124-5 Special provisions.

The above "Information for Ordering Offices" provision shall be followed by a section titled "Special Provisions." Under it, the "Scope of Contract" clause, prescribed by § 5A-73.109-1, shall be first, followed by the provisions prescribed in § 5A-73.110-1 and other appli-

cable Schedule provisions prescribed in this subpart.

§ 5A-73.124-6 [Reserved]

§ 5A-73.124-7 List of supplies or services.

(a) The list of supplies or services follows the special provisions. The essential information shall be clear, concise, and readily understandable. Contents should be arranged to utilize available space to the best advantage. Unnecessary or repetitious language shall be avoided.

(b) In the interest of uniformity, the following general guidelines shall be observed:

(1) Item numbers shall be inserted in the left column, followed in the columns to the right by the Federal stock number (except in the case of Multiple Award Federal Supply Schedules), item description, unit, unit price, time of delivery (days), and name of the contractor.

(2) Proper indentation of paragraphs is important to identify its language with the item to which it belongs, e.g., summaries of characteristics, color, type of material, etc.

§ 5A-73.124-8 List of contractors.

(a) Following the list of supplies or services shall be a tabulation entitled "List of Contractors," consisting generally of the following columnar sub-headings, as applicable: Contract number; contractor's name, address and telephone number (if payment address is different from address to which orders are to be mailed, the former shall also be shown in this column); discounts for prompt payments; plant location (for inspection at origin); region responsible for inspection (by number designation, except that when origin inspection does not apply insert "N/A" (not applicable)); and other entries as required.

(b) The contract numbers in the contract number column shall be coded as follows:

(1) If the contractor represents that he is not a small business, the symbol "(o)" shall be placed immediately preceding the contract number. If the contractor represents that he is small business, the symbol "(s)" shall be used. In the case of Multiple Award Federal Supply Schedules, contracting officers shall, during the course of negotiations, verify the contractor's business size to preclude, e.g., that unjustified preferential treatment is accorded to him as a small business concern where the items to be awarded are, in fact, not manufactured by a small business concern. These symbols shall be identified in a footnote at the end of the list of contractors.

(2) If the contract was advertised, the symbol "(adv)" shall be placed immediately after the contract number. If the contract was negotiated, the symbol "(neg)" shall be used. These symbols shall be appropriately footnoted at the end of the list of contractors, showing additionally the authority under which the contract was negotiated, e.g., contract negotiated pursuant to section 302 (c) (7) of the Act (41 U.S.C. 252(c) (7)).

NOTE: The illustrations of examples of GSA Forms 1797 and 1955 in Part 5A-16 are revised but only to the extent of providing updated examples of various types of information to be shown on these forms. Forms filed as part of the original.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 485(c); and 41 CFR 5-1.101(c))

Effective date. These regulations are effective on the date shown below.

Dated: October 6, 1971.

L. E. SPANGLER,
Acting Commissioner,
Federal Supply Service.

[FR Doc.71-15426 Filed 10-21-71;8:49 am]

Chapter 15—Environmental Protection Agency

PART 15-2—PROCUREMENT BY FORMAL ADVERTISING

Subpart 15-2.406—Mistakes in Bids

Subpart 15-2.406, Mistakes in Bids, is hereby added to Chapter 15, Title 41, of the Code of Federal Regulations.

Effective date. This regulation will become effective on its date of publication in the FEDERAL REGISTER (10-22-71).

Dated: October 19, 1971.

WILLIAM D. RUCKELSHAUS,
Administrator.

Subpart 15-2.406—Mistakes in Bids

Sec. 15-2.406-3 Other mistakes disclosed before award.

15-2.406-4 Disclosure of mistakes after award.

AUTHORITY: The provisions of this Subpart 15-2.406 issued under 40 U.S.C. 485(c), sec. 205(c), 63 Stat. 377, as amended.

§ 15-2.406-3 Other mistakes disclosed before award.

(a) The Director, Contracts Management Division will make the administrative determination in connection with mistakes in bid alleged before opening of bids and before award.

(b) Where the bidder furnishes evidence in support of an alleged mistake, the case shall be marked "Immediate Action—Mistake in Bid" and submitted in duplicate, in the most expeditious manner through procurement channels and the Chief, Policy and Review Branch, to the Director, Contracts Management Division, for evaluation and administrative determination. The file shall be assembled in an orderly manner including an index of enclosures.

(c) Where the evidence submitted by the bidder is incomplete or in need of clarification, the contracting officer shall document the file to indicate his efforts to obtain clear and convincing evidence to support the alleged mistake.

(d) Doubtful mistakes in bids shall not be submitted by contracting officers directly to the Comptroller General for advance decisions, but shall be submitted as outlined in paragraph (b) of this section. The Director, Contracts Manage-

ment Division will effect coordination with the General Counsel.

§ 15-2.406-4 Disclosure of mistakes after award.

(a) Authority to make determinations under § 1-2.406-4 of this title has been delegated to the Director, Contracts Management Division.

(b) Mistakes disclosed after award will be forwarded, in duplicate, through procurement channels and the Chief, Policy and Review Branch, to the Director, Contracts Management Division for determinations.

[FR Doc.71-15418 Filed 10-21-71;8:49 am]

Title 49—TRANSPORTATION

Chapter X—Interstate Commerce Commission

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1025-A]

PART 1033—CAR SERVICE

Regulations for Return of Covered Hopper Cars

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 12th day of October 1971.

Upon further consideration of Service Order No. 1025 (34 F.R. 7451, 9870; 35 F.R. 894, 5334, 18318; and 36 F.R. 9870) and good cause appearing therefor:

It is ordered, That:

Section 1033.1025 *Service Order No. 1025-A* (Regulations for return of covered hopper cars) be, and it is hereby, vacated and set aside.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2))

It is further ordered, That this order shall become effective at 11:59 p.m., October 15, 1971; that copies of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-15435 Filed 10-21-71;8:50 am]

Title 21—FOOD AND DRUGS

Chapter I—Food and Drug Administration, Department of Health, Education, and Welfare

SUBCHAPTER B—FOOD AND FOOD PRODUCTS

PART 121—FOOD ADDITIVES

Subpart D—Food Additives Permitted in Food for Human Consumption

Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

SYNTHETIC FATTY ALCOHOLS

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 8L2219) filed by Scientific Associates, Inc., 6200 South Lindbergh Boulevard, St. Louis, MO 63123, and other relevant material, concludes that the food additive regulations should be amended to provide for the safe use, as set forth below, of certain synthetic fatty alcohols in food, in food-contact articles, and in the synthesis of food additives and other substances for use in food and food-contact articles. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 121 is amended, as follows:

1. The following new section is added to Subpart D:

§ 121.1238 Synthetic fatty alcohols.

Synthetic fatty alcohols may be safely used in food and in the synthesis of food components in accordance with the following prescribed conditions:

(a) The food additive consists of any one of the following fatty alcohols; Hexyl, octyl, decyl, lauryl, myristyl, cetyl, and stearyl; manufactured by distillation of alcohols obtained by oxidation of organo-aluminums generated by the controlled reaction of low molecular weight trialkylaluminum with purified ethylene (minimum 99 percent by volume C_2H_4), and utilizing the hydrocarbon solvent as defined in paragraph (b) of this section, such that:

(1) Hexyl, octyl, decyl, lauryl, and myristyl alcohols contain not less than 99 percent of total alcohols and not less than 96 percent of straight chain alcohols. Any nonalcoholic impurities are primarily paraffins.

(2) Cetyl and stearyl alcohols contain not less than 98 percent of total alcohols and not less than 94 percent of straight chain alcohols. Any nonalcoholic impurities are primarily paraffins.

(3) The synthetic fatty alcohols contain no more than 0.1 weight percent of total diols as determined by a method available upon request from the Commissioner of Food and Drugs.

(b) The hydrocarbon solvent used in the process described in paragraph (a) of this section is a mixture of liquid hydrocarbons essentially paraffinic in nature derived from petroleum and refined to meet the specifications described in subparagraph (1) of this paragraph when subjected to the procedures described in subparagraphs (2) and (3) of this paragraph.

(1) The hydrocarbon solvent meets the following specifications:

(i) Boiling-point range: 175° C.—275° C.

(ii) Ultraviolet absorbance limits as follows:

Wavelength (millimicrons):	Maximum absorbance per centimeter optical path length
280-289	0.15
290-299	.13
300-359	.05
360-400	.02

(2) Use ASTM Method D-86 to determine boiling point range.

(3) The analytical method for determining ultraviolet absorbance limits is as follows:

GENERAL INSTRUCTIONS

All glassware should be scrupulously cleaned to remove all organic matter such as oil, grease, detergent residues, etc. Examine all glassware, including stoppers and stopcocks, under ultraviolet light to detect any residual fluorescent contamination. As a precautionary measure, it is recommended practice to rinse all glassware with purified isooctane immediately before use. No grease is to be used on stopcocks or joints. Great care to avoid contamination of hydrocarbon solvent samples in handling and to assure absence of any extraneous material arising from inadequate packaging is essential. Because some of the polynuclear hydrocarbons sought in this test are very susceptible to photo-oxidation, the entire procedure is to be carried out under subdued light.

APPARATUS

Chromatographic tube. 450 millimeters in length (packing section), inside diameter 10 millimeters \pm 1 millimeter, equipped with a wad of clean Pyrex brand filtering wool (Corning Glass Works Catalog No. 3950 or equivalent). The tube shall contain a 250-milliliter reservoir and a 2-millimeter tetrafluoroethylene polymer stopcock at the opposite end. Overall length of the tube is 670 millimeters.

Stainless steel rod. 2 feet in length, 2 to 4 millimeters in diameter.

Vacuum oven. Similar to Labline No. 3610 but modified as follows: A copper tube one-fourth inch in diameter and 13 inches in length is bent to a right angle at the 4-inch point and plugged at the opposite end; eight copper tubes one-eighth inch in diameter and 5 inches in length are silver soldered in drilled holes (one-eighth inch in diameter) to the one-fourth-inch tube, one on each side at the 5-, 7.5-, 10-, and 12.5-inch points; the one-eighth-inch copper tubes are bent to conform with the inner periphery of the oven.

Beakers. 250-milliliter and 500-milliliter capacity.

Graduated cylinders. 25-milliliter, 50-milliliter, and 150-milliliter capacity.

Tuberculin syringe. 1-milliliter capacity, with 3-inch, 22-gauge needle.

Volumetric flask. 5-milliliter capacity.

Spectrophotometric cells. Fused quartz ground glass stoppered cells, optical path length in the range of 1.000 centimeter \pm 0.005 centimeter. With distilled water in the cells, determine any absorbance difference.

Spectrophotometer. Spectral range 250 millimicrons-400 millimicrons with spectral slit width of 2 millimicrons or less; under instrument operating conditions for these absorbance measurements, the spectrophotometer shall also meet the following performance requirements:

Absorbance repeatability, \pm 0.01 at 0.4 absorbance.

Absorbance accuracy,¹ \pm 0.05 at 0.4 absorbance.

Wavelength repeatability, \pm 0.2 millimicron.

Wavelength accuracy, \pm 1.0 millimicron.

Nitrogen cylinder. Water-pumped or equivalent purity nitrogen in cylinder equipped with regulator and valve to control flow at 5 p.s.i.g.

REAGENTS AND MATERIALS

Organic solvents. All solvents used throughout the procedure shall meet the specifications and tests described in this specification. The isooctane, benzene, hexane, and 1,2-dichloroethane designated in the list following this paragraph shall pass the following test:

To the specified quantity of solvent in a 250-milliliter beaker, add 1 milliliter of purified *n*-hexadecane and evaporate in the vacuum oven under a stream of nitrogen. Discontinue evaporation when not over 1 milliliter of residue remains. (To the residue from benzene add a 5-milliliter portion of purified isooctane, reevaporate, and repeat once to insure complete removal of benzene.)

Dissolve the 1 milliliter of hexadecane residue in isooctane and make to 5 milliliters volume. Determine the absorbance in the 1-centimeter path length cells compared to isooctane as reference. The absorbance of the solution of the solvent residue shall not exceed 0.02 per centimeter path length between 280 and 300 μ and shall not exceed 0.01 per centimeter path length between 300 and 400 μ .

Isooctane (2,2,4-trimethylpentane). Use 10 milliliters for the test described in the preceding paragraph. If necessary, isooctane may be purified by passage through a column of activated silica gel (Grade 12, Davison Chemical Co., Baltimore, Md., or equivalent).

Benzene, spectro grade (Burdick and Jackson Laboratories, Inc., Muskegon, Mich., or equivalent). Use 80 milliliters for the test. If necessary, benzene may be purified by distillation or otherwise.

Hexane, spectro grade (Burdick and Jackson Laboratories, Inc., Muskegon, Mich., or equivalent). Use 650 milliliters for the test. If necessary, hexane may be purified by distillation or otherwise.

1,2-Dichloroethane, spectro grade (Matheson, Coleman, and Bell, East Rutherford, N.J., or equivalent). Use 20 milliliters for test. If necessary, 1,2-dichloroethane may be purified by distillation.

Eluting mixtures:

¹ As determined by procedure using potassium chromate for reference standard and described in National Bureau of Standards Circular 484, Spectrophotometry, U.S. Department of Commerce, 1949. The accuracy is to be determined by comparison with the standard values at 290, 345, and 400 millimicrons.

1. 10 percent 1,2-dichloroethane in hexane. Pipet 100 milliliters of 1,2-dichloroethane into a 1-liter glass-stoppered volumetric flask and adjust to volume with hexane, with mixing.

2. 40 percent benzene in hexane. Pipet 400 milliliters of benzene into a 1-liter glass-stoppered volumetric flask and adjust to volume with hexane, with mixing.

n-Hexadecane, 99 percent olefin-free. Dilute 1.0 milliliter of *n*-hexadecane to 5 milliliters with isooctane and determine the absorbance in a 1-centimeter cell compared to isooctane as reference between 280 and 400 μ . The absorbance per centimeter path length shall not exceed 0.00 in this range. If necessary, *n*-hexadecane may be purified by percolation through activated silica gel or by distillation.

Silica gel, 28-200 mesh (Grade 12, Davison Chemical Co., Baltimore, Md., or equivalent). Activate as follows: Weigh about 900 grams into a 1-gallon bottle, add 100 milliliters of de-ionized water, seal the bottle and shake and roll at intervals for 1 hour. Allow to equilibrate overnight in the sealed bottle. Activate the gel at 150° C. for 16 hours, in a 2-inch x 7-inch x 12-inch porcelain pan loosely covered with aluminum foil, cool in a dessicator, transfer to a bottle and seal.

PROCEDURE

Determination of ultraviolet absorbance. Before proceeding with the analysis of a sample determine the absorbance in a 1-centimeter path cell for the reagent blank by carrying out the procedure without a sample. Record the absorbance in the wavelength range of 280 to 400 millimicrons. Typical reagent blank absorbance in this range should not exceed 0.04 in the 280 to 299 millimicron range, 0.02 in the 300 to 359 millimicron range, and 0.01 in the 360 to 400 millimicron range. If the characteristic benzene peaks in the 250 to 260 millimicron region are present, remove the benzene by the procedure described above under "Reagents and Materials," "Organic Solvents," and record absorbance again.

Transfer 50 grams of silica gel to the chromatographic tube for sample analysis. Raise and drop the column on a semisoft, clean surface for about 1 minute to settle the gel. Pour 100 milliliters of hexane into the column with the stopcock open and allow to drain to about one-half inch above the gel. Turn off the stopcock and allow the column to cool for 30 minutes. After cooling, vibrate the column to eliminate air and stir the top 1 to 2 inches with a small diameter stainless steel rod. Take care not to get the gel above the liquid and onto the sides of the column.

Weigh out 40 grams \pm 0.1 gram of the hydrocarbon solvent sample into a 250-milliliter beaker, add 50 milliliters of hexane, and pour the solution into the column. Rinse the beaker with 50 milliliters of hexane and add this to the column. Allow the hexane sample solution to elute into a 500-milliliter beaker until the solution is about one half inch above the gel. Rinse the column three times with 50-milliliter portions of hexane. Allow each hexane rinse to separately elute to about one-half inch above the gel. Replace the eluate beaker (discard the hexane eluate) with a 250-milliliter beaker. Add two separate 25-milliliter portions of 10 percent 1,2-dichloroethane and allow each to separately elute as before. Finally, add 150 milliliters of 10 percent 1,2-dichloroethane for a total of 200 milliliters. When the final 10 percent 1,2-dichloroethane fraction is about one-half inch above the top of the gel bed, replace the receiving beaker (discard the 1,2-dichloroethane eluate) with a 250-milliliter beaker containing 1 milliliter of hexadecane. Adjust the elution rate to 2

to 3 milliliters per minute, add two 25-milliliter portions of 40 percent benzene and allow each to separately elute as before to within about one-half inch of the gel bed. Finally, add 150 milliliters of 40 percent benzene for a total of 200 milliliters. Evaporate the benzene in the oven with vacuum and sufficient nitrogen flow to just ripple the top of the benzene solution. When the benzene is removed (as determined by a constant volume of hexadecane) add 5 milliliters of isooctane and evaporate. Repeat once to insure complete removal of benzene. Remove the beaker and cover with aluminum foil (previously rinsed with hexane) until cool.

Quantitatively transfer the hexadecane residue to a 5-milliliter volumetric flask and dilute to volume with isooctane. Determine the absorbance of the solution in 1-centimeter path length cells between 280 and 400 millimicrons using isooctane as a reference. Correct the absorbance values for any absorbance derived from reagents as determined by carrying out the procedure without a sample. If the corrected absorbance does not exceed the limits prescribed in subparagraph (1) (ii) above, the sample meets the ultraviolet absorbance specifications for hydrocarbon solvent.

(c) Synthetic fatty alcohols may be used as follows:

(1) As substitutes for the corresponding naturally derived fatty alcohols permitted in food by existing regulations in this Subpart D, provided that the use is in compliance with any prescribed limitations.

(2) As substitutes for the corresponding naturally derived fatty alcohols used as intermediates in the synthesis of food additives and other substances permitted in food.

2. Section 121.1080 is amended in paragraph (a) by revising the limitation for the reactant "stearyl alcohol" to read as follows:

§ 121.1080 Stearyl monoglyceridyl citrate.

(a) * * *	* * *
Reactant	Limitation
* * *	* * *
Stearyl alcohol.....	Derived from fatty acids conforming with § 121.1070, or derived synthetically in conformity with § 121.1238.

3. By adding to Subpart F the following new section:

§ 121.2616 Synthetic fatty alcohols.

Synthetic fatty alcohols may be safely used as components of articles intended for use in contact with food, and in synthesizing food additives and other substances permitted for use as components of articles intended for use in contact with food in accordance with the following prescribed conditions:

(a) The food additive consists of fatty alcohols meeting the specifications and definition prescribed in § 121.1238 of this chapter.

(b) It is used or intended for use as follows:

(1) As substitutes for the corresponding naturally derived fatty alcohols per-

mitted for use as components of articles intended for use in contact with food by existing regulations in this Subpart F, provided that the use is in compliance with any prescribed limitations.

(2) As substitutes for the corresponding naturally derived fatty alcohols used as intermediates in the synthesis of food additives and other substances permitted for use as components of food-contact articles.

Any person who will be adversely affected by the foregoing order may at any time within 30 days after its date of publication in the FEDERAL REGISTER file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof. Received objections may be seen in the above office during working hours, Monday through Friday.

Effective date. This order shall become effective on its date of publication in the FEDERAL REGISTER (10-22-71).

(Sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348 (c)(1))

Dated: October 7, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-15402 Filed 10-21-71; 8:48 am]

PART 121—FOOD ADDITIVES

Subpart C—Food Additives Permitted in Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

SUBCHAPTER C—DRUGS

PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS AKLOMIDE, ROXARSONE

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (34-536V) filed by Salsbury Laboratories, Charles City, Iowa 50616, proposing revised labeling regarding the safe and effective use of aklomide alone or with roxarsone in chicken feed. The supplemental application is approved.

The order also provides for recodification of the regulation concerning aklomide from Part 121 to Part 135e in accordance with § 3.517 (21 CFR 3.517).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)), in accordance with § 3.517, and under authority delegated to the Commissioner (21 CFR 2.120), Parts 121 and 135e are amended, as follows:

§ 121.269 [Deleted]

1. Part 121 is amended by deleting § 121.269 *Aklomide*.

2. Part 135e is amended by adding thereto the following new section:

§ 135e.31 *Aklomide*.

(a) **Chemical name.** 2-Chloro-4-nitrobenzamide.

(b) **Specifications.** (1) Minimum melting point 170° C.

(2) Moisture content not to exceed 1 percent.

(3) Purity not less than 98 percent on anhydrous basis.

(c) **Approvals.** The following premix levels have been granted; for sponsor see code No. 031 in § 135.501(c) of this chapter.

(1) 50 percent aklomide.

(2) 20 percent sulfanitran and 25 percent aklomide.

(3) 25 percent aklomide, 20 percent sulfanitran and 5 percent roxarsone.

(4) 50 percent aklomide and 10 percent roxarsone.

(d) **Assay limits.** Finished feed must contain 85-120 percent of labeled amount of the drug.

(e) **Special considerations.** Maximum level permitted in medicated concentrate is 0.1 percent of aklomide.

(f) **Related tolerances.** See § 135g.60.

(g) **Conditions of use.** It is used as follows:

AKLOMIDE IN ANIMAL FEED

Principal ingredient	Grams per ton	Combined with—	Grams per ton	Limitations	Indications for use
1. Aklomide.....	227 (0.025%)	.....	.....	For chickens; not to be fed to birds laying eggs for human consumption.	As an aid in the prevention of coccidiosis caused by <i>E. tenella</i> and <i>E. necatrix</i> .
2. Aklomide.....	227 (0.025%)	Sulfanitran.....	181.0 (0.02%)	For chickens; not to be fed to laying chickens; withdraw 5 days before slaughter.	As an aid in the prevention of coccidiosis caused by <i>E. tenella</i> , <i>E. necatrix</i> , and <i>E. accervulina</i> .
3. Aklomide.....	227 (0.025%)	Sulfanitran + Roxarsone.	181.0 (0.02%) 22.7-45.4 (0.0025% - 0.005%)	For chickens; not to be fed to laying chickens; withdraw 5 days before slaughter; as sole source of organic arsenic; chickens should have access to drinking water at all times.	As an aid in the prevention of coccidiosis caused by <i>E. tenella</i> , <i>E. necatrix</i> and <i>E. accervulina</i> ; growth promotion and feed efficiency.
4. Aklomide.....	227 (0.025%)	Roxarsone.....	22.7-45.4 (0.0025% - 0.005%)	For chickens; not to be fed to birds laying eggs for human consumption; withdraw 5 days before slaughter; as sole source of organic arsenic; chickens should have access to drinking water at all times.	As an aid in the prevention of coccidiosis caused by <i>E. tenella</i> and <i>E. necatrix</i> ; growth promotion and feed efficiency.
a. 2.....	.....	Bacitracin.....	4-50	As zinc bacitracin.....	Growth promotion and feed efficiency.
b. 2.....	.....	Chlortetracycline.....	10-50	As chlortetracycline hydrochloride.	Do.
c. 2.....	.....	Penicillin plus streptomycin.	14.4-50	14.4-50 grams of combination containing 16.7 percent of penicillin; as procaine penicillin plus streptomycin sulfate.	Growth promotion and feed efficiency (effective as an aid in the prevention of coccidiosis from <i>E. tenella</i> and <i>E. necatrix</i> only when used with these antibiotics).
d. 2.....	.....	Oxytetracycline....	10-50	As the monoalkyl (C ₂ -C ₁₈) trimethylammonium salt of oxytetracycline.	Growth promotion and feed efficiency.

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10-22-71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360 b(1))

Dated: October 12, 1971.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.71-15332 Filed 10-21-71; 8:45 am]

PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

Thiabendazole

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (13-022V) filed by Merck Sharp & Dohme Research Laboratories, Division of Merck and Co., Inc., Rahway, N.J. 07065, proposing revised labeling for the safe and effective use of

the drug as an anthelmintic in sheep. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120),

Part 135c is amended in the table in § 135c.7(e) by revising item 3 in the "Indications for Use" column, as follows:

- § 135c.7 Thiabendazole.
- (e) * * *
 - (2) * * *
 - (ii) It is also used as follows:

IN A DRENCH OR BOLUS

Amount	Limitations	Indications for use
***	***	***
3. Thiabendazole.....	***	Control of infections of gastrointestinal round worms in sheep and goats (genera <i>Trichostrongylus</i> spp., <i>Haemonchus</i> spp., <i>Ostertagia</i> spp., <i>Cooperia</i> spp., <i>Nematodirus</i> spp., <i>Bunostomum</i> spp., <i>Strongyloides</i> spp., <i>Cyathostomum</i> spp., and <i>Oesophagostomum</i> spp.) also effective against ova and larvae passed by sheep (good activity against <i>Trichostrongylus</i> spp. and <i>Ostertagia</i> spp., <i>Bunostomum</i> spp., <i>Nematodirus</i> spp., and <i>Strongyloides</i> spp.; less effective against <i>Haemonchus contortus</i> and <i>Oesophagostomum</i> spp.).
***	***	***

Effective date. This order shall be effective upon publication in the FEDERAL REGISTER (10-22-71).

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360 (b) (i))

Dated: October 12, 1971.

C. D. VAN HOUWELING,
Director,
Bureau of Veterinary Medicine.

[FR Doc.71-15334 Filed 10-21-71;8:45 am]

PART 144—ANTIBIOTIC DRUGS; EXEMPTIONS FROM LABELING AND CERTIFICATION REQUIREMENTS

Cadmium Anthranilate; Revocation

Based on a notice of withdrawal of approval of a new animal drug application (Docket No. FDC-D-345) appearing elsewhere in this issue of the FEDERAL REGISTER, the Commissioner of Food and Drugs concludes that the antibiotic drug regulations should be amended to revoke provisions for the use of cadmium anthranilate in animal feed supplements for use solely as an anthelmintic for poultry or swine.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 507, 512, 59 Stat. 463, as amended, 82 Stat. 343-51; 21 U.S.C. 357, 360b) and under authority delegated to the Commissioner (21 CFR 2.120), § 144.26 *Animal feed containing certifiable antibiotic drugs* is amended in paragraph (b) (5) by revoking subdivision (vii).

Within 30 days after publication hereof in the FEDERAL REGISTER any person who will be adversely affected by the removal of any such drug from the market may file objections to this order stating reasonable grounds for their objections and may request a hearing on such objections. Objections and request for a hearing should be filed in quintuplicate with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6-88, 5600 Fishers Lane, Rockville, Md. 20852.

If a hearing is requested, the objection's must identify any adequate and well-controlled investigations which would indicate conclusively that no unsafe residues will be present in edible tissue of slaughtered swine. Objections and requests for a hearing which are received in response to this order may be seen in the above office during business hours, Monday through Friday.

Effective date. This order shall become effective 40 days after its date of publication in the FEDERAL REGISTER. If objections are filed, the effective date will be extended for ruling thereon.

(Secs. 507, 512, 59 Stat. 463, as amended, 82 Stat. 343-51; 21 U.S.C. 357, 360b)

Dated: October 13, 1971.

SAM D. FINE,
Associate Commissioner
for Compliance.

[FR Doc.71-15400 Filed 10-21-71;8:49 am]

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter I—Office of Emergency Preparedness

[OEP Economic Stabilization Reg. 1, Circular No. 22]

SUPPLEMENTARY GUIDANCE FOR APPLICATION

Economic Sfabilization Circular No. 22

This circular is designed for general information only. The statements herein are intended solely as general guides drawn from OEP Economic Stabilization Regulation No. 1 and from specific determinations and policy statements by the Cost of Living Council and do not constitute legal rulings applicable to cases which do not conform to the situations clearly intended to be covered by such guides.

Note: Provisions of this and subsequent circulars are subject to clarification, revision, or revocation.

This 22d circular covers determinations and policy statements by the Council through October 20, 1971.

APPENDIX I

ECONOMIC STABILIZATION CIRCULAR NO. 22

100. **Purpose.** (1) On August 15, 1971, President Nixon issued Executive Order No. 11615, as amended, providing for stabilization of prices, rents, wages, and salaries and establishing the Cost of Living Council, a Federal agency. The order delegated to the Council all of the powers conferred on the President by the Economic Stabilization Act of 1970, as amended. The effective date of the order was 12:01 a.m., August 16, 1971.

(2) By its Order No. 1, the Council delegated to the Director of the Office of Emergency Preparedness authority to administer the program for the stabilization of prices, rents, wages, and salaries as directed by section 1 of Executive Order No. 11615, as amended.

(3) Executive Order No. 11627 was issued on October 15, 1971, to further implement the President's stabilization program. The order superseded Executive Order No. 11615 of August 15, 1971, but provided in section 13 that all orders, regulations, circulars, or other directives issued and all other actions taken pursuant to Executive Order No. 11615, as amended, are hereby confirmed and ratified, and shall remain in full force and effect, as if issued under this order, unless and until altered, amended, or revoked by the Council or by such competent authority as the Council may specify.

(4) The purpose of this circular, the 22d in a series to be issued, is to furnish further guidance to Federal officials and the public in order to promote the program.

200. **Authority.** Relevant legal authority for the program includes the following:

- The Constitution.
- Economic Stabilization Act of 1970, Public Law 91-379, 84 Stat. 793; Public Law 92-15, 85 Stat. 38.
- Executive Order No. 11615, as amended, 36 F.R. 15127, August 17, 1971.
- Cost of Living Council Order No. 1, 36 F.R. 16215, August 20, 1971.
- OEP Economic Stabilization Regulation No. 1, as amended, 36 F.R. 16515, August 21, 1971.
- Executive Order No. 11627, 36 F.R. 20139, October 15, 1971.

300. **General guidelines.** (1) The guidance provided in this circular is in the nature of additions to or clarifications of previous determinations and policy statements by the Cost of Living Council covered in previous OEP Economic Stabilization Circulars.

(2) The numbering system used in this circular corresponds to that used in OEP Economic Stabilization Circular No. 101.

400. **Price guidelines.**

403. **Specific guidelines.** (1) Hospital ward, semiprivate, and private room rates are frozen under "price" guidelines (substantial transactions) and should be treated as prices by category of service offered, i.e., ward, semiprivate room, etc.

409. **Exemptions.** (1) To the list of examples of exempt agricultural products

RULES AND REGULATIONS

contained in paragraph 409(3) in OEP Economic Stabilization Circular No. 101, add "gin notes".

500. *Wage and salary guidelines.*

504. *Fringe benefits.* (1) The following guidance is provided as additional guidance with respect to the effect of the wage price freeze on stock option plans which were established prior to the freeze:

(a) A corporation may not grant stock options during the freeze to an

employee hired before or during the freeze who was promised options as a part of his compensation.

(b) A corporation may not grant stock options during the freeze to an employee promoted before or during the freeze period as a part of his compensation package.

(c) New stock options cannot be issued during the freeze no matter when the exercise date is fixed.

1001. *Effective date.* This circular, unless modified, superseded or revoked, is effective on the date of publication for a period terminating at midnight of November 13, 1971.

Dated: October 21, 1971.

G. A. LINCOLN,
Director,

Office of Emergency Preparedness.

[FE Doc.71-15690 Filed 10-21-71;3:03 pm]

Proposed Rule Making

DEPARTMENT OF JUSTICE

[28 CFR Part 48]

NEWSPAPER PRESERVATION ACT

Filing and Approval of Joint Newspaper Operating Arrangements

Notice is hereby given of the proposed issuance of the following rules, issued by virtue of the authority vested in me by sections 509 and 510 of title 28, and section 301 of title 5, United States Code, and pursuant to Public Law 91-353 (84 Stat. 466). These rules will amend Chapter I of Title 28 of the Code of Federal Regulations by adding this new Part 48. Interested persons may submit written views on the rules or suggestions for change to the Assistant Attorney General in charge of the Antitrust Division, Department of Justice, Washington, D.C. 20530. All comments received within 30 days of publication of this notice will be considered. The proposed rules are as follows:

PART 48—NEWSPAPER PRESERVATION ACT

- | | |
|-------|--|
| Sec. | |
| 48.1 | Purpose. |
| 48.2 | Definitions. |
| 48.3 | Procedure for filing all documents. |
| 48.4 | Antitrust Division. |
| 48.5 | Stenographic reporting service. |
| 48.6 | Fees. |
| 48.7 | Procedure for filing terms of a renewal or amendment of existing joint operating arrangements. |
| 48.8 | Application for approval of joint operating arrangements entered into after July 24, 1970. |
| 48.9 | Public notice. |
| 48.10 | Protests. |
| 48.11 | Intervention. |
| 48.12 | Hearing. |
| 48.13 | Exceptions. |
| 48.14 | Decision by the Attorney General. |
| 48.15 | Temporary approval. |
| 48.16 | Requests that information not be made public. |

§ 48.1 Purpose.

These regulations set forth the procedure by which application may be made to the Attorney General for his approval of joint newspaper operating arrangements entered into after July 24, 1970, and for the filing with the Department of Justice of the terms of a renewal or amendment of existing newspaper operating arrangements, as required by the Newspaper Preservation Act, Public Law 91-353, 84 Stat. 466.

§ 48.2 Definitions.

As used in this part:

(a) The term "Attorney General" means the Attorney General of the United States or his delegate, other than the Assistant Attorney General in charge of the Antitrust Division.

(b) The term "existing arrangement" means all joint newspaper operating ar-

rangements entered into before July 24, 1970.

(c) The term "joint newspaper operating arrangement" means any contract, agreement, joint venture (whether or not incorporated), or other arrangement entered into by two or more newspaper owners for the publication of two or more newspaper publications, pursuant to which joint or common production facilities are established or operated and joint or unified action is taken or agreed to be taken with respect to any one or more of the following: Printing; time, method, and field of publication; allocation of production facilities; distribution; advertising solicitation; circulation solicitation; business department; establishment of advertising rates; establishment of circulation rates and revenue distribution: *Provided*, That there is no merger, combination, or amalgamation of editorial or reportorial staffs, and that editorial policies be independently determined.

(d) The term "newspaper" means a publication produced on newsprint paper which is published in one or more issues weekly (including as one publication any daily newspaper and any Sunday newspaper published by the same owner in the same city, community, or metropolitan area), and in which a substantial portion of the content is devoted to the dissemination of news and editorial opinion.

(e) The term "party" means any applicant, intervenor and the Assistant Attorney General in charge of the Antitrust Division.

(f) The term "person" means any individual, and any partnership, corporation, association, or other legal entity existing under or authorized by the law of the United States, any State or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any foreign country.

§ 48.3 Procedure for filing all documents.

All filings required by these regulations shall be accomplished by:

(a) Mailing five copies of each document to the Assistant Attorney General for Administration, Department of Justice, Washington, D.C. 20530. He shall place one copy in a numbered public docket, one copy in a duplicate of this file for the use of officials with decisional responsibility; and shall forward three copies to the Assistant Attorney General in charge of the Antitrust Division; except that documents subject to nondisclosure orders under § 48.16 shall be held under seal and disclosed only in accordance with the provision of that section.

(b) Mailing one copy of each document, other than an initial application for approval and supporting data, to every other party to the proceedings,

along with the name and address of the party filing the document or its counsel, and a certificate that service has been made in accordance with these provisions.

§ 48.4 Antitrust Division.

The Assistant Attorney General in charge of the Antitrust Division shall be Public Counsel in each proceeding initiated by an application for approval of a proposed joint operating arrangement. He may delegate this function to any attorney in the Department of Justice. He shall not communicate concerning the proceedings with any hearing examiner appointed under these regulations, or with the Attorney General, except as a party in the manner prescribed herein. Upon the request of the Antitrust Division, the applicants shall submit to it any information, in addition to that required by § 48.8, necessary to preparing its views in accord with § 48.10(b).

§ 48.5 Stenographic reporting service.

If a hearing is required pursuant to § 48.12, the Assistant Attorney General for Administration shall procure the services of a stenographic reporter. One copy of the transcript produced shall be included in the public docket, and additional copies may be purchased from the reporter by the parties. (5 U.S.C. 3109)

§ 48.6 Fees.

A fee of \$200 shall accompany an application for approval of a joint operating arrangement entered into after July 24, 1970. In addition, the Assistant Attorney General for Administration may impose, at the completion of the application proceedings, an additional fee to cover the costs incurred by the Department in processing the application. (31 U.S.C. 483a)

§ 48.7 Procedure for filing of terms of a renewal or amendment to existing joint newspaper operating arrangements.

Within 30 days after a renewal or amendment to the terms of an existing arrangement, the parties to said renewal or amendment shall cause to be filed five copies of the renewed or amended arrangement.

§ 48.8 Application for approval of joint operating arrangements entered into after July 24, 1970.

(a) Persons desiring to enter into joint operating arrangements after July 24, 1970, shall file an application in writing for approval of such arrangement, setting forth a short, plain statement of the reasons why the applicants believe that approval should be granted.

(b) With the request, the applicants shall also file the following, with respect to each newspaper, for the 5-year period prior to the date of the application:

- (1) Annual profit and loss statement;
- (2) Annual statement of Assets and Liabilities;
- (3) Reports of the Audit Bureau of Circulation, or statements containing equivalent information;
- (4) Annual advertising lineage records;
- (5) Rate cards;
- (6) Any other information which the applicants believe relevant to their request for approval.

(c) A copy of the application and supporting data shall be open to public inspection during normal business hours at the main office of each of the newspapers involved in the arrangement except to the extent permitted by nondisclosure orders under § 48.16(a).

§ 48.9 Public notice.

(a) Upon the filing of the documents required by § 48.8, the applicants shall file, and cause to be published on the front pages of each of the newspapers for which application is made, daily and Sunday, for a period of 2 weeks:

(1) Notice that a request for approval of a joint newspaper operating arrangement has been filed with the Attorney General;

(2) Notice that copies of said arrangement, as well as all other documents submitted pursuant to § 48.8, are available for public inspection at the Department of Justice and at the main offices of the involved newspapers;

(3) Notice that protests may be filed with the Department of Justice in accord with the requirements of § 48.10(a).

(b) Upon the filing of the notice required in paragraph (a) of this section and the filing of proof of publication of said notice, the Assistant Attorney General for Administration, or his delegate, shall cause the notice to be published in the FEDERAL REGISTER.

(c) If a hearing is ordered pursuant to § 48.12, the applicants shall cause to be published the time, date, place, and purpose of such hearing on their respective front pages at least three times within the 2-week period after the hearing has been ordered (two times if the applicants are weekly newspapers), and for the 3 days preceding such hearing (one day during the week preceding the hearing if the applicants are weekly newspapers).

§ 48.10 Protests.

(a) Any person who believes that the Attorney General should not approve the proposed arrangement may, within 60 days after publication in the FEDERAL REGISTER of the notice required in § 48.9(b), file a protest setting forth a short, plain statement of the reasons why approval should not be granted.

(b) Within 90 days after the publication in the FEDERAL REGISTER of the notice required in § 48.9(b) the Antitrust Division shall file its protest or other views.

(c) A protest which requests a public evidentiary hearing shall set forth the issues of fact to be determined.

§ 48.11 Intervention.

Any person who desires to intervene in the proceedings as a party shall, within 60 days after publication in the FEDERAL REGISTER of the notice required in § 48.9(b), file a petition requesting intervention, stating why their interests may be adversely affected by the Attorney General's decision. Upon such filing, the person shall be considered a party for the purpose of § 48.3, unless and until the hearing examiner rules otherwise.

§ 48.12 Hearing.

(a) Upon the filing of the applications, the Assistant Attorney General for Administration shall appoint a hearing examiner in accord with section 11 of the Administrative Procedure Act, 5 U.S.C. 3105.

(b) Upon the filing of the Antitrust Division's views, the hearing examiner shall review the record, and shall determine whether there are genuine issues of material fact which require a hearing.

(c) If no hearing is ordered, the examiner shall render to the Attorney General a proposed report and order, setting forth the examiner's findings and conclusions. Said report and order shall also be filed as provided in § 48.3.

(d) If a hearing is ordered, the examiner shall:

(1) Set a date and place for the hearing convenient for all parties involved, giving preference to the community in which the applicants' newspapers operate; and

(2) Conduct a hearing in accord with section 7 of the Administrative Procedure Act, 5 U.S.C. 556. At such a hearing, the burden of proving that the proposed arrangement meets the requirements of the Newspaper Preservation Act will be on the proponents of the arrangement. The rules of evidence which govern civil proceedings in matters not involving trial by jury in the courts of the United States shall apply, but these rules may be relaxed if the ends of justice will be better served in so doing: *Provided*, That the introduction of irrelevant, immaterial, or unduly repetitious evidence is avoided. Only parties to the proceedings may present evidence, or cross-examine witnesses.

(e) Following the hearing, the examiner shall render to the Attorney General a proposed report and order, along with findings and conclusions, in accord with section 8 of the Administrative Procedure Act, 5 U.S.C. 557(c). Said report and order shall also be filed as provided in § 48.3.

§ 48.13 Exceptions.

(a) Within 30 days of the date the hearing examiner renders his proposed report and order, any party may file in accord with § 48.3, written exceptions to the proposed report and order for consideration by the Attorney General.

(b) Within 60 days of the date the hearing examiner renders his recommendation, responses to such exceptions, if any, may be filed in the same manner.

(c) Before making his decision, the Attorney General may in his discretion, order further oral argument.

§ 48.14 Decision by the Attorney General.

The Attorney General shall decide, on the basis of the entire record, whether approval is warranted under the Act.

§ 48.15 Temporary approval.

(a) The Attorney General may grant temporary approval of a joint newspaper operating arrangement pending his final decision on an application, if he concludes that such approval appears to be necessary to prevent one or more of the newspapers from failing before the procedures under these regulations can be completed.

(b) Requests for temporary approval shall be filed and published in the same manner as requests for permanent approval.

(c) Such temporary approval may be granted ex parte, and without hearing, but shall create no presumption that final approval will be granted.

§ 48.16 Requests that information not be made public.

(a) Any applicant may file a request that commercial or financial data required to be filed and made public under these regulations, which is privileged or confidential within the meaning of 5 U.S.C. 552(b), be withheld from public disclosure. Each such request shall be accompanied by a statement of the reasons why nondisclosure is required. The request shall be determined by the hearing examiner. Material ordered withheld from public disclosure shall be placed under seal and shall be disclosed only as provided in paragraph (b) of this section to the extent required to complete proceedings hereunder, and to the Antitrust Division. Such sealed material shall constitute part of the record.

(b) Any person desiring to inspect documents not open to public inspection hereunder may file a request for inspection. Each such request shall identify with as much particularity as possible the materials to be inspected, and shall set forth the reasons for inspection and the facts in support thereof. Such requests shall be determined by the hearing examiner. Orders granting inspection shall specify the terms and conditions thereof including restrictions on disclosure to third persons. (5 U.S.C. 552(b) (4) and 18 U.S.C. 1905.)

(c) Requests for access to materials within the scope of this section that may be filed after the conclusion of proceedings under these regulations shall be processed in accordance with the Department's regulations under 5 U.S.C. 552 (Part 16 of this chapter).

Dated: October 9, 1971.

JOHN N. MITCHELL,
Attorney General.

[FR Doc.71-15301 Filed 10-21-71;8:47 am]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and
Conservation Service

17 CFR Part 811

CONTINENTAL SUGAR REQUIRE-
MENTS AND AREA QUOTASProposed Determination for Calendar
Year 1972

Notice is hereby given that the Secretary of Agriculture pursuant to authority vested in him by the Sugar Act of 1948, as amended (61 Stat. 922), is considering the determination of the amount of sugar needed to meet the requirements of consumers in the continental United States in 1972 and the establishment of sugar quotas for the calendar year 1972.

In accordance with the rule making requirements of 5 U.S.C. 553 (80 Stat. 378), all persons who desire to submit written data, views, or arguments for consideration in connection with the proposed regulation shall file the same in duplicate with the Director, Sugar Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250, not later than November 1, 1971. The period in which comments can be submitted is considered reasonable in view of the urgent need to issue the regulation as soon as possible and the fact that the interested persons are familiar with the issues involved.

The proposed determination of 1972 sugar requirements for the continental United States and quotas for the calendar year 1972 are set forth essentially in form and language appropriate for issuance, if adopted by the Secretary as follows:

Basis and purpose and bases and considerations. The distribution of quota sugar in the United States during the 12 months ended August 31, 1971, amounted to 11,220,000 short tons, raw value. That quantity was about 60,000 tons more than the quantity distributed in the preceding 12-month period.

Population is growing at an annual rate of about 1.1 percent. Accordingly population during calendar year 1972 should be about 1.45 percent greater than in the 12-month period ended August 31, 1971. At a constant per capita rate, distribution in 1972 might be expected to approximate 11,390,000 tons. It should be noted, however, that the per capita rate of distribution declined very slightly during the base period.

The cane sugar refining industry customarily has refining losses of about 65,000 tons annually. Therefore, it would appear that new quota supplies of 11,450,000 could have the effect of maintaining refiners' inventories of quota sugar at year end 1972 at the same level as at the beginning of the year.

At this time it is impossible to accurately estimate such inventories at the beginning of 1972 to say nothing of what they might amount to at the end of that year. A number of considerations could affect refiners' inventory investment poli-

cies and incidentally those of the manufacturers of sugar containing products. The actual variation in the inventories of quota sugar during the year could have a significant effect on the quantity of quota sugar supplies needed during 1972.

During the first nine months of 1971, the domestic price of raw sugar fluctuated from a low 8.29 cents per pound as an average for April to a high of 8.66 cents per pound as an average for August. The average for the 9-month period was 8.47 cents per pound or 4.8 percent more than the 8.08 cents per pound average for the first 9 months of 1970. The price on September 30 was 8.50 cents per pound, or 97.1 percent of the price referred to in section 201 of the Act. In developing this determination, consideration has been given to maintaining prices in 1972 that will carry out the price objective set forth in section 201(b) of the Act.

The price objective is a price for raw sugar which will maintain the same ratio between such price and the average of the parity index (1967=100) and the wholesale price index (1967=100) as the ratio that existed between (1) the simple average of the monthly price objective calculated for the period September 1, 1970, through August 31, 1971, under this section as in effect immediately prior to the date of enactment of the Sugar Act Amendments of 1971 (8.54 cents per pound), and (2) the simple average of such two indexes for the same period (115.4). Adjustments shall be made in the determination of requirements during the period November through February whenever the simple average price for raw sugar over 7 consecutive market days is 3 percent or more above or below the average price objective for the previous 2 calendar months. The percentage is increased to 4 percent for the March through October period.

In consideration of these matters, it is determined that 11.2 million short tons, raw value, is the quantity of sugar needed to meet the requirements of consumers in the continental United States and to attain the price objective of the Act.

A quota of 1,160,000 short tons, raw value, is established herein for Hawaii pursuant to section 202(a)(3) of the Act. Such quota is subject to adjustment pending final data on the production and marketing of sugar by Hawaii in 1971.

The quota for Southern Rhodesia has been withheld pursuant to Executive Order 11322 issued on January 5, 1967, and is prorated herein to Western Hemisphere countries pursuant to section 202(d)(1)(B) of the Act.

The quota established for Ireland is based on the assumption that a letter will be received promptly from that country stating that its quota will be filled with sugar produced in Ireland.

The quota for Haiti is based on the assumption that additional information will be submitted which will substantiate its claim that its 1971 quota shortfall was due to force majeure.

It is also determined on the basis of information currently available to the Department that no reduction is required at this time pursuant to section 202(d)(3) and (4) of the Act in the quotas established herein for other foreign countries. This action is based on the tentative assumption that each such country either will fill its 1971 quota within a reasonable tolerance or that facts will be submitted which will support a finding that the shortfall in the country's 1971 quota was due to force majeure.

In general, sugar production in countries with U.S. sugar quotas is heaviest in the first 5 months of the year while consumption in the United States is greatest in the following 4 months—June through September. Because of storage limitations, many producers in foreign countries are inclined to ship in large quantities of raw sugar during the production season. The desire to minimize carrying costs, especially at this time when interest rates are high, and the need for operating funds during the production season have a similar effect. Furthermore, the raw sugar produced in the mainland cane area is marketed heavily just before and after the turn of the year.

In view of these circumstances and to relate the importation of raw sugar to the needs of the market in an orderly fashion, it is hereby determined that the importation of foreign sugar within the quotas before April 1 will be limited to 950,000 short tons, raw value, plus the quantity of sugar imported this year for refining and storage under bond for charge to 1972 quotas.

To recognize the seasonality of production and movement of sugar from the foreign countries, quota allocations to foreign countries for the importation of raw sugar during the first quarter of 1972 will be based primarily on average imports of raw sugar, within quotas, from such foreign countries during the first quarter of the 3-year period 1969 through 1971 and to provide for minimum allocations of 5,000 tons or the quantity applied for whichever is less.

Production of sugar in Puerto Rico is not expected to exceed 435,000 short tons, raw value, while requirements for consumption in Puerto Rico are expected to be of the order of 130,000 tons. It would appear that the quantity of sugar available for shipment to the continental United States would not be more than 305,000 tons. Accordingly a deficit of 550,000 tons in the 855,000 ton quota for Puerto Rico is declared herein and allocated to foreign countries of the Western Hemisphere which have quotas under subsection 202(c)(3)(A) in proportion to their quotas determined pursuant to section 202.

- Sec.
- 811.10 Sugar requirements 1972.
 - 811.11 Quotas for domestic areas.
 - 811.12 Proration and allocation of deficits in quotas.
 - 811.13 Quotas for foreign countries.
 - 811.14 Applicability of quotas.
 - 811.15 Restrictions on importations and marketings within quotas.

PROPOSED RULE MAKING

AUTHORITY: The provisions of §§ 811.10-811.15 issued under sec. 403, 61 Stat. 932, 7 U.S.C. 1153; Secs. 201, 202, 204, 207, 208, 209, 210; 61 Stat. 923, as amended, 924, as amended, 925, as amended, 927, as amended, and 928, as amended; 7 U.S.C. 1111, 1112, 1114, 1117, 1118, 1119, 1120, and Public Law 92-138 approved October 14, 1971.

§ 811.10 Sugar requirements 1972.

The amount of sugar needed to meet the requirements of consumers in the continental United States for the calendar year 1972 is hereby determined to be 11,200,000 short tons, raw value.

§ 811.11 Quotas for domestic areas.

(a) (1) For the calendar year 1972, domestic area quotas limiting the quantities of sugar which may be brought into or marketed for consumption in the continental United States are established, pursuant to section 202(a) of the Act in column (1), and the amounts of such quotas for offshore areas that may be filled by direct-consumption sugar are established, pursuant to section 207 of the Act in column (2), as follows:

Area	Quotas	Direct-consumption Limits
	(1)	(2)
	(Short tons, raw value)	
Domestic beet sugar.....	3,406,000	No limit
Mainland cane sugar.....	1,539,000	No limit
Hawaii.....	1,160,000	38,646
Puerto Rico.....	855,000	160,000

(2) It is hereby determined pursuant to section 204(a) of the Act that for the calendar year 1972 Puerto Rico will be unable by 550,000 short tons, raw value, to fill its quota established in subparagraph (1) of this paragraph. Pursuant to section 204(b) of the Act the determination of such deficits shall not affect the quotas established in subparagraph (1) of this paragraph.

(b) Of the quantity established in paragraph (a) of this section for Puerto Rico which may be filled by direct-consumption sugar, 126,033 short tons, raw value, may be filled only by sugar principally of crystalline structure.

§ 811.12 Proration and allocation of deficits in quotas.

The deficit in the Puerto Rican quota determined in paragraph (a)(2) of § 811.11 of 550,000 short tons, raw value, is hereby prorated and allocated pursuant to section 204(a) of the Act, by allocating 30.08 percent or 165,440 short tons, raw value to the Republic of the Philippines and by prorating the remaining 384,560 short tons, raw value, to Western Hemisphere countries on the basis of quotas determined herein pursuant to section 202.

§ 811.13 Quotas for foreign countries.

(a) The quotas or prorrations for foreign countries limiting the quantities of sugar which may be imported into the continental United States during the calendar year 1972 for consumption therein and the amounts of such quotas and prorrations that may be filled by direct-con-

sumption sugar are hereby established as set forth in paragraphs (b), (c), (d), and (e) of this section.

(b) For the calendar year 1972, the quota for the Republic of the Philippines is 1,291,460 short tons, raw value, representing 1,126,020 short tons, established pursuant to section 202 of the Act and 165,440 short tons established pursuant to section 204 of the Act. Of the quantity of 1,126,020 short tons established pursuant to section 202 of the Act, only 59,920 short tons, raw value, may be filled by direct-consumption sugar pursuant to section 207(d) of the Act.

(c) For the calendar year 1972, the prorrations to individual foreign countries other than the Republic of the Philippines pursuant to section 202 of the Act are shown in columns (1) and (2) of the following table. In column (3) a portion of the deficit proration in the quota of Puerto Rico amounting to 384,560 short tons, raw value, is herein prorated to Western Hemisphere countries listed in section 202(c)(3)(A) of the Act, on the basis of quotas determined herein pursuant to section 202. Total quotas and prorrations are shown in column (4).

Production Area	Basic quotas	Temporary quotas and prorrations pursuant to Sec. 202(d) ¹	Deficits and deficits prorrations	Total quotas and prorrations
(Short tons, raw value)				
Dominican Republic.....	401,154	133,424	80,620	615,498
Mexico.....	354,771	117,036	71,684	543,491
Brazil.....	345,926	116,078	69,703	531,727
Peru.....	247,687	82,348	49,843	379,878
West Indies.....	129,121	42,046	28,040	199,207
Ecuador.....	61,084	16,691	10,206	87,981
Argentina.....	47,950	16,948	9,672	74,570
Costa Rica.....	43,249	14,335	8,724	66,308
Colombia.....	42,623	14,176	8,698	65,497
Panama.....	28,039	8,860	5,374	42,273
Nicaragua.....	40,420	13,447	8,165	61,932
Venezuela.....	38,548	12,821	7,770	59,139
Guatemala.....	39,081	12,300	7,460	58,841
El Salvador.....	29,953	8,965	5,437	44,355
British Honduras.....	21,311	7,039	4,290	32,640
Haiti.....	19,431	6,462	3,919	29,812
Bahamas.....	10,024	5,623	3,414	19,061
Honduras.....	7,622	2,592	1,517	11,731
Bolivia.....	4,074	1,366	822	6,262
Paraguay.....	4,074	1,366	822	6,262
Australia.....	157,328	42,814	.....	200,142
Republic of China.....	66,601	17,825	.....	84,426
India.....	62,924	17,143	.....	80,067
South Africa.....	44,603	12,111	.....	56,714
Fiji Islands.....	34,474	9,391	.....	43,865
Mauritius.....	23,192	6,311	.....	29,503
Swaziland.....	23,192	6,311	.....	29,503
Thailand.....	14,416	3,923	.....	18,339
Uganda.....	11,696	3,160	.....	14,856
Malagasy Republic.....	9,402	2,659	.....	12,061
Ireland.....	6,351	.....	.....	6,351
Total.....	2,368,269	755,611	334,660	3,458,540

¹ Proration of the quotas withheld from Cuba and Southern Rhodesia.

(d) (1) Of the total quotas and prorrations for foreign countries established in paragraphs (b) and (c) of this section, an amount not to exceed 950,000 short tons, raw value, of raw sugar, plus the quantity imported in late 1971 under bond for refining and storage, may be charged against such 1972 quotas and authorized for importation or release from bond from all such foreign countries in accordance with Part 817 of this chapter during the first quarter of 1972. The quantity imported in late 1971 under bond for refining and storage will be released from bond and charged to quotas on January 1, 1972. The quantity, 950,000 short tons, raw value, will be authorized for importation and charged to quotas during the first quarter of 1972 as set forth in subparagraphs (2) and (3) of this paragraph (d).

(2) (i) The importation of raw sugar within the annual quotas and the quarterly limitation specified in subparagraph (1) of this paragraph (d) will be authorized on the basis of applications for "Set Aside of Quota" on Form SU-8A or "Sugar Quota Clearance" on Form SU-3 in accordance with the provisions

of Part 817 of this chapter, subject to the priorities for countries as provided in subparagraph (3) of this paragraph and the limitations as provided in subdivision (ii) of this subparagraph. Applications to import raw sugar from the Republic of the Philippines must, before final approval within the quantity reserved for the Republic of the Philippines pursuant to subparagraph (3) of this paragraph, be supplemented by certification from the Sugar Quota Administrator for the Government of the Philippines granting the applicant the permission to export sugar to the U.S. market.

(ii) Applications for the importation of sugar during the first quarter received on or before November 19, 1971 will be considered as having been received at the same time.

(3) (i) Allocations of first quarter importations among countries will be made in the following manner but not to exceed as to each country the quantity applied for.

(ii) First priority shall be given to countries by establishing allocations equal to the average of each country's first quarter importations during 1969,

1970, and 1971 as set forth in subparagraph (4) of this paragraph or 5,000 short tons, raw value, whichever is larger: *Provided*, That if the quantity of sugar which may be imported during the first quarter is less than the quantity needed to approve all applications under this first priority, an allocation of the lesser of the amount applied for or 5,000 short tons, raw value, shall be made to each country having less than 5,000 short tons, raw value, average first quarter importations as set forth in subparagraph (4) of this paragraph; and the balance of the quantity of sugar which may be imported during the first quarter under this first priority shall be prorated among the other countries on the basis of average first quarter importations as set forth in subparagraph (4) of this paragraph.

(iii) Second priority shall be given to those countries whose respective accumulated allocations for the first quarter under the first priority as provided in subdivision (ii) of this subparagraph is less than 20 percent of the country's annual quota by making additional allocations to any such country which shall be so limited that the total of the allocations under priorities in subdivisions (ii) and (iii) of this subparagraph during the first quarter for such country as a percentage of its annual quota will not exceed the percentage similarly calculated for any other such country and shall be further limited so that the total quantity which may be imported from such country during the first quarter shall not exceed 20 percent of the country's annual quota.

(iv) Any quantity not allocated under subdivision (ii) and (iii) of this subparagraph shall be prorated among countries that received allocations less than the full amount applied for, and such additional proration shall be made on the basis of the average imports of sugar from the countries during the first quarter as set forth in subparagraph (4) of this paragraph.

(4) Average importations into the continental United States within quotas, during the first quarter of the years 1969, 1970, and 1971 are as follows:

Country	First quarter (short tons, raw value)
Philippines	161,635
Dominican Republic	167,628
Mexico	158,048
Brazil	168,503
Peru	87,213
West Indies	26,602
Ecuador	8,622
Argentina	35,778
Costa Rica	17,855
Colombia	15,700
Panama	6,682
Nicaragua	16,612
Venezuela	12,185
Guatemala	34,499
El Salvador	23,697
British Honduras	4,543
Haiti	0
Bahamas	4,690
Honduras	5,492

Country	First quarter (short tons, raw value)
Bolivia	73
Paraguay	0
Australia	1,606
Republic of China	3,639
India	2,163
South Africa	31,604
Fiji	1,218
Mauritius	207
Swaziland	288
Thailand	282
Uganda	0
Malagasy Republic	82
Total	937,205

(e) For the calendar year 1972, the quantity of each proration established in paragraph (c) of this section that may be filled by direct-consumption sugar pursuant to section 207(e) of the Act is as follows:

Country	Short tons, raw value
Ireland	5,351
Panama	3,817

(f) For the calendar year 1972, the quota for liquid sugar for foreign countries as a group is 2 million gallons of sirup of cane juice of the type of Barbados molasses, limited to liquid sugar containing soluble nonsugar solids (excluding any foreign substance that may have been added or developed in the product) of more than 5 percent of the total soluble solids, which is not to be used as a component of any direct consumption sugar but is to be used as molasses without substantial modification of its characteristics after importation.

§ 811.14 Applicability of quotas.

(a) All sugar and liquid sugar marketed or imported into the continental United States is subject to the provisions of Part 816 or Part 817 of this chapter which prescribe the time, manner, and conditions under which quotas and prorations are filled by the marketing and importation of sugar or liquid sugar.

(b) The quantitative limitations established by §§ 811.11 to 811.13, inclusive, do not apply to sugar or liquid sugar marketed or imported pursuant to sections 211 and 212 of the Act in accordance with the provisions of Part 816 or Part 817 of this chapter.

§ 811.15 Restrictions on importations and marketings within quotas.

Subject to the provisions of Parts 816 and 817 of this chapter all persons are prohibited from bringing or importing into or marketing in the continental United States (a) any sugar or liquid sugar from any country for which no quota is established or in excess of or after the applicable quota or quantity set forth in §§ 811.11 to 811.13 inclusive has been filled, or (b) any sugar or liquid sugar as direct-consumption sugar from any country for which no direct-consumption sugar limitation is established or after the direct-consumption portion of the applicable quota has been filled.

Signed at Washington, D.C., on October 19, 1971.

KENNETH E. FRICK,
Administrator, Agricultural Sta-
bilization and Conservation
Service.

[FR Doc.71-15421 Filed 10-21-71;8:45 am]

Consumer and Marketing Service
[7 CFR Part 906]

ORANGES AND GRAPEFRUIT GROWN
IN LOWER RIO GRANDE VALLEY IN
TEXAS

Proposed Expenses, Fixing of Rate of
Assessment, and Carryover of Un-
expended Funds

Notice of proposed rule making with respect to expenses and fixing of rate of assessment for the 1971-72 fiscal period and carryover of unexpended funds.

Consideration is being given to the following proposals submitted by the Texas Valley Citrus Committee, established pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in Lower Rio Grande Valley in Texas, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer the terms and provisions thereof:

(1) That expenses that are reasonable and likely to be incurred by the Texas Valley Citrus Committee, during the period August 1, 1971, through July 31, 1972, will amount to \$735,000.

(2) That there be fixed at \$0.045 per 7/8 bushel carton or equivalent quantity of oranges and grapefruit, the rate of assessment payable by each handler in accordance with § 906.34 of the aforesaid marketing agreement and order.

(3) That unexpended assessment funds in excess of expenses incurred during the fiscal period ended July 31, 1971, be carried over as a reserve in accordance with § 906.35 of said marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112A, Administration Building, Washington, D.C. 20250, not later than the 10th day after the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: October 19, 1971.

ARTHUR E. BROWNE,
Acting Director, Fruit and Vege-
table Division, Consumer and
Marketing Service.

[FR Doc.71-15441 Filed 10-21-71;8:51 am]

[7 CFR Part 1036]

MILK IN EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

Proposed Suspension of Certain Provisions of Order

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), the suspension of certain provisions of the order regulating the handling of milk in the Eastern Ohio-Western Pennsylvania marketing area is being considered.

All persons who desire to submit written data, views, or arguments in connection with the proposed suspension should file the same with the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 7 days from the date of publication of this notice in the FEDERAL REGISTER. All documents filed should be in quadruplicate.

All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be suspended are as follows:

1. In § 1036.41(c) (6) (iv), "and bulk cream";
2. In § 1036.41(c) (6) (vii), "and bulk cream"; and
3. In § 1036.42(b) (1), "and bulk cream."

STATEMENT OF CONSIDERATION

The proposed suspension would continue the effect of a suspension order effective for the months of May 1971 through October 1971 that changed the amount of allowable Class III shrinkage on bulk cream transferred from a pool plant to other plants. The suspension order currently in effect provides that Class III shrinkage on bulk cream derived from receipts of producer milk at a pool plant and transferred to other plants is limited to 2 percent of the cream. Without suspension, such percentage would be 0.5 percent.

Continuation of the current suspension was requested by Milk, Inc., a cooperative association which handles at its pool balancing plant a substantial portion of the market's reserve supplies of milk. In its handling operation, the cooperative receives producer milk at farm weights and tests, separates such milk, and transfers the cream to other plants for churning. The cooperative stated that performance of these operations usually results in more than 0.5 percent shrinkage on the cream transferred.

The cooperative asked that the current suspension order be continued until such time as a hearing is held to consider appropriate modification of such order provisions.

Signed at Washington, D.C., on October 19, 1971.

G. R. GRANGE,
Acting Deputy Administrator,
Regulatory Programs.

[FR Doc.71-16442 Filed 10-21-71;8:51 am]

Rural Electrification Administration

[7 CFR Part 1701]

TELEPHONE WIRE LINE TRUNK CARRIER SYSTEMS

Proposed Revision of Specifications and Contracts

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue a revision of REA Bulletin 385-4 to provide for changes in REA Form 397b, REA Design Specifications for Wire Line Trunk Carrier Systems and to identify the current editions of the related special equipment contracts and specifications. On issuance of the revised REA Bulletin, Appendix A of Part 1701 will be amended accordingly.

Persons interested in the revised specifications and contracts may submit written data, views, or comments to the Director, Telephone Operations and Standards Division, Room 1355, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days from the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours. A copy of revised REA Form 397b may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

The text of revised REA Bulletin 385-4 identifying and summarizing the proposed revisions in the specifications and contracts is as follows:

REA BULLETIN 385-4

SUBJECT: Special Equipment Contracts and Specifications.

I. *Purpose.* To announce the revision of REA Form 397b, REA Design Specifications for Wire Line Trunk Carrier Systems and list current editions of special equipment contracts and specifications.

II. *General.* These contracts and specifications are to be used by borrowers for the purchase of special electronic equipment in accordance with the procedure set forth in REA Bulletin 385-2, "Purchasing Special Electronic Equipment."

III. *Contracts and Specifications—A. Contracts.* 1. Special Equipment Contract (Including Installation), REA Form 397 (Revised 11-66).

2. Special Equipment Contract (Not Including Installation), REA Form 398 (11-62).

3. Telephone Equipment Contract (Installation Only), REA Form 400 (10-65).

B. *Specifications.* 1. Voice Frequency Repeaters and Voice Frequency Repeated Trunk Specifications, REA Form 397a (1-63).

2. REA Design Specifications for Wire Line Trunk Carrier Systems, REA Form 397b (9-71).

3. Subscriber Carrier Specifications, REA Form 397c (2-63).

4. REA Design Specifications for Point-to-Point Microwave Radio Systems, REA Form 397d (Revised 6-70).

5. Mobile and Fixed Dial Radiotelephone Equipment Specifications, REA Form 397e (5-71).

6. Trunk Carrier Multiplex Equipment, PE-60 (4-71).

7. Microwave Radio Equipment, PE-63 (6-69).

8. Station Carrier Equipment, PE-62 (6-71).

IV. *Revision of REA Form 397b, Design Specifications for Wire Line Trunk Carrier Systems.* The principal changes are:

A. Overall changes have been made in the specification to provide more detailed engineering information.

B. The detailed equipment requirements for Pulse Code Modulation (PCM) type carrier and the technical data needed for PCM application engineering have been incorporated into the specification.

C. Transmission requirements have been set out in more detail to conform with the general up-grading of toll connecting trunks.

D. Acceptance tests for idle channel noise and pulsing have been added.

V. *Source of Special Equipment Contracts, Specifications, and Contractor's Bond.* A. The contracts and the specifications are available from REA upon request. The contracts and the individual specifications are stocked separately.

B. Each contract form, 397 and 400, contains one copy of the "Contractor's Bond," REA Forms 397f and 400a respectively. Additional copies of these bond forms are available from REA upon request.

Dated: October 19, 1971.

WALTER L. WOLFF,
Acting Assistant
Administrator—Telephone.

[FR Doc.71-15439 Filed 10-21-71;8:50 am]

[7 CFR Part 1701]

TELEPHONE CABLE SPLICING CONNECTORS

Proposed Revision of Specification

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to issue a revision of REA Bulletin 345-54 to provide for changes in Specification PE-52, REA Specification for Telephone Cable Splicing Connectors. On issuance of the revised REA Bulletin, Appendix A of Part 1701 will be modified accordingly.

Persons interested in the revised specification may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Room 1355, South Building, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 30 days from the publication of this notice in the FEDERAL REGISTER. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

A copy of revised REA Specification PE-52 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

The text of revised REA Bulletin 345-54 explaining and summarizing the proposed revisions in the specification is as follows:

REA BULLETIN 345-54

SUBJECT: REA Specification for Telephone Cable Splicing Connectors.

I. *Purpose.* To announce the revision of REA Specification PE-52 for Telephone Cable Splicing Connectors.

II. *General.* The revised specification will become effective immediately upon issuance of this bulletin. All cable splicing connectors supplied for future REA projects must comply with requirements of the revised specification.

III. *Principal Changes.* A. The water soak test has been changed from a 30-day soak test to a cycling test of five cycles, each consisting of 72 hours in water and 72 hours out.

B. The minimum allowable insulation resistance during the water soak test is 100 megohms.

IV. *Availability of Specification.* Copies of PE-52 will be furnished by REA upon request.

Dated: October 19, 1971.

WALTER L. WOLFF,
Acting Assistant
Administrator—Telephone.

[FR Doc.71-15440 Filed 10-21-71;8:51 am]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

I 14 CFR Part 37 I

[Docket No. 11452; Notice 71-34]

AIRBORNE VOR RECEIVING EQUIPMENT

Proposed Technical Standard Order

The Federal Aviation Administration is considering amending § 37.138 of the Federal Aviation Regulations by revising the Technical Standard Order (TSO-C40a) for airborne VOR receiving equipment.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, DC 20591. All communications received on or before January 20, 1972, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

It is proposed to amend the current Technical Standard Order to provide minimum performance standards for an automatic mode of operation and for the rejection of reflected signals. In addition, the advent of turbo jet airplanes has presented a new set of operational and environmental conditions which must be covered in the TSO. At the request of

the FAA, the Radio Technical Commission for Aeronautics has developed a set of environmental conditions and test procedures for airborne electronic equipment and instruments to cover environmental conditions encountered by high performance jet airplanes, including the SST environment. RTCA Document No. DO-138 entitled "Environmental Conditions and Test Procedures for Airborne Electronic/Electrical Equipment and Instruments," and dated June 27, 1968, would be incorporated by reference in the revised TSO.

Among other technical changes being proposed in this Notice, it is proposed to define the minimum standards for antenna efficiency. Although the antenna will be used as a receiving antenna, the standard is written in terms of a radiating antenna because it has been found more convenient to do so, especially from a test procedure point of view. It is also proposed to provide for a bearing accuracy of 2.7° and to establish a set of conditions under which this accuracy must be achieved. A new provision covering the sensitivity of the course deviation indicator has been added and the proposal contains new requirements for the voice identification of VOR equipment. The proposed revised TSO is compatible with the U.S. National Aviation Standard for the VORTAC System.

In consideration of the foregoing, it is proposed to amend § 37.138 of the Federal Aviation Regulations to read as follows:

§ 37.138 Airborne VOR Receiving Equipment TSO-C40b.

(a) *Applicability.* This technical standard order prescribes the minimum performance standards that airborne VOR receiving equipment must meet in order to be identified with the applicable TSO marking. New models of equipment that are to be so identified and that are manufactured on or after (the effective date of this section) must meet the requirements of the "Federal Aviation Standard, Airborne VOR Receiving Equipment", set forth at the end of this section and Radio Technical Commission for Aeronautics Document No. DO-138 entitled "Environmental Conditions and Test Procedures for Airborne Electronic/Electrical Equipment and Instruments", dated June 27, 1968. RTCA Document No. DO-138 is incorporated herein in accordance with 5 U.S.C. 552(u)(1) and § 37.23 of the Federal Aviation Regulations and is available as indicated in § 37.23. Additionally, RTCA Document No. DO-138 may be examined at any FAA regional office of the Chief of Engineering and Manufacturing Branch (or in the case of the Western Region, the Chief, Aircraft Engineering Division) and may be obtained from the RTCA Secretariat, Suite 655, 1717 H Street NW., Washington, DC, 20006; at a cost of \$8 per copy.

(b) *Marking.* In addition to the markings specified in § 37.7, the equipment must be permanently and legibly marked with the following information:

(1) The environmental categories over which it has been designed to operate

must be marked in accordance with Appendix B of RTCA Document No. DO-138. Where an environmental test procedure is not applicable and the test is not conducted, an "X" should be placed in the space assigned for that category.

(2) Each separate component of the equipment (antenna, receiver, indicator, etc.) must be identified with at least the name of the manufacturer, the TSO number, and the environmental categories over which the component is designed to operate.

(c) *Data requirements.* In accordance with § 37.5, the manufacturer must furnish to the Chief, Engineering and Manufacturing Branch, Flight Standards Division (or in the case of the Western Region, to the Chief, Aircraft Engineering Division), Federal Aviation Administration, in the region in which the manufacturer is located, on copy of the following technical data:

(1) Manufacturer's operating instructions and equipment limitations.

(2) Installation procedures with applicable schematic diagrams, wiring diagrams, and specifications. Indicate any restrictions, or other conditions pertinent to installation.

(3) List of components (by part number) that makes up the equipment system.

(4) Manufacturer's test report(s).

(5) Equipment data sheet specifying the actual performance of the equipment with respect to each performance factor specified in the standard, and the ranges of environmental factors (temperature, altitude, etc.) within which that performance can be attained.

(d) *Data furnished with each article manufactured.* A copy of the installation procedures specified in paragraph (c) (2) of this section, and the equipment data sheet specified in paragraph (c) (5) of this section, must be furnished with each article manufactured under this TSO.

(e) *Previously approved equipment.* Airborne VOR receiving equipment approved prior to (the effective date of this section) may continue to be manufactured under the provisions of its original approval.

FEDERAL AVIATION STANDARD

AIRBORNE VOR RECEIVING EQUIPMENT

1.0 *General standards—1.1 Operation of controls.* The design of the equipment must be such that the controls intended for use during flight cannot be operated in any possible position combinations or sequences that would result in a condition detrimental to the continued performance of the equipment.

1.2 *Accessibility of controls.* Controls which are not normally adjusted in flight may not be readily accessible to flight personnel.

1.3 *Effects of tests.* Unless otherwise stated, the application of the specified tests may not produce a subsequently discernible condition which would be detrimental to the continued performance of the equipment.

2.0 *Minimum performance standards under standard test conditions.* The test conditions and definitions of terms applicable to a determination of the performance of airborne VOR receiving equipment under standard test conditions are set forth in

Appendix A of this standard. In attempting to determine compliance with the standards specified in this paragraph, it may be desirable to first determine compliance with certain of the standards under environmental test conditions specified in paragraph 3.0 in order to reduce the total test effort.

2.1 *Bearing accuracy.* a. The bearing error, as presented to the pilot, may not exceed 2.7° under the following conditions:

(1) The frequency of the reference and variable phase signals is 30 hertz \pm 0.1 percent.

(2) The primary power voltage at the input terminals of the equipment is within 2 percent of the nominal design voltage.

(3) The percentage modulation of the carrier by the variable phase signal is between the limits of 28 percent and 32 percent.

(4) The ambient air temperature surrounding the equipment of between 20° C and 30° C.

(5) The carrier frequency of the test signal is within 0.002 percent of the assigned channel frequency.

(6) The power supply frequency (a.c. source only) is 400 hertz \pm 5 percent or within 5 percent of any other nominal power supply frequency for which the equipment is designed.

(7) No interfering signal is present; and

(8) The RF input voltage is varied between 5 μ v and 10,000 μ v.

b. The bearing error, as presented to the pilot, may not exceed 2.7° with a statistical probability of 95 percent under all combinations of the following variable conditions:

(1) Variations of \pm 1 percent in the frequency of the reference and variable phase signals.

(2) Variations of \pm 10 percent in the primary power voltage.

(3) Variation of the percentage modulation of the carrier phase signal from 25 percent to 35 percent.

(4) Variation of the ambient air temperature throughout the range of which the equipment is designed.

(5) Variation of the carrier frequency of the test signal from 0.005 percent above the assigned channel frequency to 0.005 percent below the assigned channel frequency.

(6) Variation of the power supply frequency throughout the range for which the equipment is designed.

(7) When an undesired signal at a level of 2,000 microvolts at any VOR frequency 50 kHz or more removed from the desired VOR signal, is added to a desired VOR signal at levels from 5 to 1,000 microvolts. The undesired signal must consist of an RF carrier which is amplitude modulated 30 percent by a 30-hertz signal that is 90° out of phase with the variable phase component of the desired VOR signal.

(8) When an undesired cochannel VOR signal at a level 20 db below that of the desired VOR signal is added to a desired VOR signal at levels from 5 to 1,000 microvolts.

c. If the equipment is intended to provide electrical guidance information to an autopilot/coupler or other navigation equipment, the provisions of 2.1a and 2.1b must be met in the course deviation output.

NOTE: It is not required that equipment be subjected to all combinations of the above variable conditions simultaneously to determine compliance with this standard. Statistical procedure for the determination of VOR bearing accuracy or alternate procedures which provide equivalent information may be used.

2.2 *Course deviation indication.* If a course deviation indicator is provided, the following requirements must be met:

a. *Deflection sensitivity.* The course deviation pointer must visibly deflect at least

one-half inch when the phase difference between the two components of a standard VOR test signal is changed 10° from that producing an "on course" indication. This requirement must be met at all input signal levels between 5 μ v and 10,000 μ v.

b. *Deflection linearity.* The deflection must be proportional to the change in phase between the two components of the standard VOR test signal, within 20 percent of the deflection produced by a 10° change in phase. This requirement must be met at all deflections produced when the phase difference is varied from plus 10° to minus 10° of that producing an "on course" indication. The pointer deflection may not decrease as the phase difference is increased from that producing an "on course" indication to that producing an indication which is equivalent to \pm 80° from "on course".

c. *Deflection response.* When the difference in phase between the two components of an "on course" standard VOR test signal of 100 μ v is abruptly changed ten degrees (10°), the pointer must reach 70 percent of its ultimate position within 3 seconds and the pointer overshoot may not exceed 20 percent.

d. *Indicator visibility.* The index and dial markings on all indicators must be visible from any point within the frustrum of a cone the sides of which make an angle of 30° with the perpendicular to the dial and the small diameter of which is the aperture of the indicator. If a control knob(s) on the equipment interferes with full compliance with this requirement, such control knob(s) may be disregarded in complying with the requirement.

NOTE: The requirements of this paragraph are based on a course deviation indicator of the moving pointer type. It is recognized that display devices using other types of indication are possible. When such display devices are provided as part of the equipment, the sense of the requirements of this paragraph must be met.

2.3 *Automatic bearing indicators.* If an automatic bearing indicator is provided, the following requirements must be met:

a. The bearings displayed on the automatic indicator must be independent of those displayed on the course deviation indicator. Any probable malfunction of the automatic instrumentation may not affect the performance or accuracy of the omnibearing selector/course deviation indicator combination or vice-versa.

b. The compass card of the radio magnetic indicator or similar instrument must indicate the magnetic heading of the aircraft within \pm 1° of the associated compass to which it is slaved.

c. The pointers on the radio magnetic indicator, or similar instrument, when activated by a VOR receiver must be within \pm 2.7° of the actual VOR bearing.

2.4 *Spurious responses.* Over the RF input signal frequency range of 0.190 MHz to 1215 MHz, excluding the band 107.8 to 118.2 MHz, the level of a standard audio test signal required to produce a given receiver output must be at least 60 db greater than that required to produce the given output at the frequency of maximum response.

2.5 *Alarm signal.* An alarm signaling device must be provided to meet the following conditions:

a. It must be plainly visible or in the "alarm" condition (e.g., of the to-from indicator) in the absence of—

(1) An RF signal;

(2) A 9,960 hertz modulation on an otherwise standard VOR test signal of 5 to 10,000 μ v; or

(3) A 30 hertz modulation on an otherwise standard VOR test signal of 5 to 10,000 μ v.

b. It must at least begin to appear, or to enter the "alarm" condition, when the RF level of a standard VOR test signal is such that the deflection sensitivity is one-half that with a 100 μ v signal.

c. It must be energized and its indicator "off" or out of sight or be out of the "alarm" condition when the RF level of a standard VOR test signal is varied over the range of at least 5 to 10,000 microvolts.

2.6 *Emission of radiofrequency energy.* The levels of conducted and radiated spurious radiofrequency energy emitted by the receiver may not exceed those levels specified in Appendix A of RTCA Document No. DO-138 for the category for which the receiver is designed.

2.7 *Voice/Ident audio output level.* A Standard Audio Test Signal having an RF level of not more than 20 μ v must produce a receiver output which is not less than the manufacturer's published rated output.

2.8 *Voice/Ident manual gain control.* The output of the receiver must be adjustable from rated output to at least 40 db below rated output over the RF input signal level range of 20 μ v to 10,000 μ v, modulated 30 percent at 1,000 hertz.

2.9 *Voice/Ident audiofrequency response.* The difference between the maximum and the minimum Voice/Ident audio output levels may not exceed 6 db when the audio modulating frequency of an RF signal, modulated 30 percent, is varied over the range of 350 to 2,500 hertz and when the RF input level is held constant at that value which produces a signal-plus-noise to noise ratio of 20 db at 1,000 hertz.

2.10 *Voice/Ident audio distortion.* The combined distortion and noise in the receiver Voice/Ident audio output may not exceed 25 percent of the total power output. This requirement must be met over the RF input range of 100 to 10,000 μ v, using a standard VOR audio test signal.

2.11 *Voice/Ident audio output noise level.* When the receiver gain is adjusted to produce rated output with a standard VOR audio test signal applied to the receiver input terminals and when the amplitude of this signal is varied over the range of 5 to 10,000 μ v, the signal-plus-noise to noise ratio of the receiver audio output must be at least 6 db. If the equipment is designed for operation from an alternating current power source, this standard must be met over the range of power source frequencies for which the equipment is designed.

2.12 *AVC characteristics.* Between the limits of 5 μ v and 10,000 μ v input of a standard VOR audio test signal, the difference between the maximum and the minimum Voice/Ident audio output levels may not exceed 10 db.

2.13 *Antenna efficiency.* a. Narrow band antenna (restricted to 108-118 MHz) must meet the following conditions:

(1) Over the frequency range 108 to 118 MHz, the horizontal component of the radiated signal in the forward and rearward direction may not be down more than 10 db when compared to the maximum radiation from a standard horizontal dipole antenna resonant at 113 MHz and mounted 10 inches above the ground plane.

(2) At any frequency within the frequency range 108-118 MHz, the difference between the maximum and the minimum field strength of the horizontal component of the radiated signal in the azimuth plane may not exceed 20 db.

b. Broad band antenna (including VHF communication band) must meet the following conditions:

(1) Over the frequency range for which the antenna is designed, the horizontal component of the radiated signal in the forward

and rearward directions may not be down more than 10 db when compared to the maximum radiation from a standard horizontal dipole antenna resonant at 122 MHz and mounted 10 inches above the ground plane.

(2) At any frequency within the frequency range for which the antenna is designed, the difference between the maximum and the minimum field strength of the horizontal component of the radiated signal in the azimuth plane may not exceed 20 db.

2.14 *Antenna polarization.* Over the frequency range of 108–118 MHz the reception of vertically polarized signals from any horizontal direction with respect to the antenna must be at least 10 db below the reception of horizontally polarized signals from the same direction.

2.15 *Antenna VSWR.* When the antenna to be used with the receiver is designed for use with a transmission line, the voltage standing wave ratio on the transmission line may not exceed a value of 6 over the radio-frequency range of 108.0 to 118.0 MHz.

2.16 *Receiver VSWR.* When the receiver is designed for use with a transmission line, the voltage standing wave ratio on the transmission line may not exceed a value of 10 over the radio-frequency range of 108.0 to 118.0 MHz.

2.17 *Reflected signal rejection.* The displayed bearings on the course deviation indicator and/or the automatic bearing indicator may not vary more than $\pm 2^\circ$ and $\pm 5^\circ$ respectively when a standard VOR test signal applied to the VOR radio receiver is amplitude modulated 10 percent by audio frequencies over the range of 5 hertz to 100 hertz, including 12 hertz, but avoiding the frequencies of 10, 15, 30, 60, and 90 hertz (± 2 hertz).

3.0 *Minimum performance standards under environmental test conditions.* Unless otherwise specified herein, the environmental test procedures applicable to a determination of the performance of radio equipment under environmental test conditions are set forth in RTCA Document No. DO-138.

3.1 *Temperature—altitude test.* a. Low Temperature Test.

(1) When the equipment is subjected to this test—

(a) The requirements of paragraphs 2.2a, 2.5, and 2.10 must be met, and the bearing error may not exceed that specified in paragraph 2.1a; and

(b) All mechanical devices must perform their intended functions. The maximum time required to effect a change in operating frequency of the equipment may not exceed 10 seconds.

(2) After the equipment is subjected to this test the requirements of paragraph 2.15 must be met.

b. *High temperature test.* (1) When the equipment is operated at the high short time operating temperature—

(a) The bearing error may not be degraded by more than a factor of 2 below that specified in paragraph 2.1a;

(b) The requirements of paragraph 2.5c must be met when the level of the test signal is 100 μ v or greater; and

(c) All mechanical devices must operate satisfactorily.

(2) When the equipment is operated at the high operating-temperature, the requirements of paragraphs 2.2a, 2.5, and 2.10 must be met, and the bearing error may not exceed that specified in paragraph 2.1a.

(3) After being subjected to the high operating temperature, the equipment must meet the requirements of paragraph 2.15.

c. *Decompression test* (Applicable only to Category D equipment of Temperature-Altitude Test). When the equipment is subjected to this test—

(1) The bearing error may not be degraded by more than a factor of 3 below that specified in paragraph 2.1a;

(2) The requirements of paragraph 2.5c must be met when the test signal is 500 μ v, or greater; and

(3) All mechanical devices must operate satisfactorily.

d. *Altitude test.* When the equipment is subjected to this test—

(1) The requirements of paragraphs 2.2a, 2.5, and 2.10 must be met, and the bearing error may not exceed that specified in paragraph 2.1a; and

(2) After subsection to this test, the requirements of paragraph 2.15 must be met.

3.2 *Humidity test.* After the equipment is subjected to this test, the following requirements must be met:

a. Within 15 minutes from the time that primary power is applied—

(1) The bearing error may not be degraded by more than a factor of 3 below that specified in paragraph 2.1a;

(2) The requirements of paragraph 2.5c must be met when the test signal is 500 μ v, or greater; and

(3) All mechanical devices must operate satisfactorily.

b. Within 4 hours from the time that primary power is applied, the requirements of paragraphs 2.2a, 2.5, 2.10, and 2.15 must be met, and the bearing error may not exceed that specified in paragraph 3.1a.

3.3 *Shock test.* a. Following the application of the Operational Shocks, the requirements of paragraphs 2.2a, 2.5, and 2.15 must be met, and the bearing error may not exceed that specified in paragraph 2.1a.

b. During the application of the Crash Safety Shocks, the equipment must remain in its mounting and no part of the equipment or its mounting may become detached and free of the shock test table or of the equipment under test. The application of these tests may result in damage to the equipment under test. Therefore, they may be conducted after the other tests are complete.

3.4 *Vibration test.* a. When the equipment is subjected to this test the requirements of paragraph 2.11 must be met, and the bearing error may not exceed that specified in paragraph 2.1a, except that the input signal level must be 10 microvolts and the input power frequency (if a.c. operated) need not be varied.

b. After the equipment is subjected to the Vibration Test, the requirements of paragraph 2.15 must be met.

3.5 *Temperature variation test.* When subjected to this test, the standards of paragraphs 2.2a, 2.5, and 2.10 must be met. In addition, all mechanical devices must perform their intended functions and the maximum time required to effect a change in operating frequency of the equipment may not exceed 10 seconds.

3.6 *Electrical input variation test.* When the equipment is subjected to this test—

a. The requirements of paragraphs 2.2a, 2.5, and 2.10 must be met, and the bearing error may not exceed that specified in paragraph 2.1a; and

b. All mechanical devices must perform their intended functions. The maximum time required to effect a change in operating frequency of the equipment must not exceed 10 seconds.

3.7 *Low voltage test.* a. When the equipment is subjected to the low voltage test (Paragraph 9.2.1 of RTCA Document No. DO-138) the equipment must operate electrically and mechanically.

b. When the equipment is subjected to the low voltage test (Paragraph 9.2.2A of RTCA

Document No. DO-138) the requirements of paragraphs 2.2, 2.5, 2.7, 2.9, 2.10, 2.11, 2.12, and 2.16 must be met, and the bearing error must not exceed that specified in paragraph 2.1a.

c. When the equipment is subjected to the low voltage test (Paragraph 9.2.2B of RTCA Document No. DO-138) there must be no evidence, external to the equipment, of the presence of fire or smoke. The application of these tests may result in damage to the equipment under test. Therefore, they may be conducted after the other tests are complete.

3.8 *Conducted voltage transient test.* a. After the equipment has been subjected to the Intermittent Transient Test—

(1) The requirements of paragraph 2.2a must be met, except that the input signal level must be 10 microvolts and the input power frequency (if a.c. operated) need not be varied;

(2) The requirements of paragraph 2.5c must be met, except that the input signal level must be 10 microvolts; and

(3) The requirements of paragraph 2.11 must be met, except that the input signal level must be 100 microvolts and the audio frequency must be 1,000 hertz.

b. While the equipment is being subjected to the repetitive transient test, the bearing error may not exceed that specified in paragraph 2.1a. When the repetition rate of the transient is sub-harmonically related to the 30-hertz VOR component, an excessive response may occur. Therefore, it is advisable to avoid this condition.

3.9 *Conducted audio-frequency susceptibility test.* When the equipment is subjected to this test—

a. The requirements of paragraph 2.11 must be met, except that the input signal level must be 10 microvolts and the input power frequency (if a.c. operated) need not be varied; and

b. When the equipment includes navigation circuitry which involves the use of audio frequencies in any form between 200 and 2,000 hertz, the requirements of paragraph 2.1a must be met.

3.10 *Audio-frequency magnetic field susceptibility test.* When the equipment is subjected to this test—

a. The requirements of paragraph 2.11 must be met, except that the input signal level must be 10 microvolts and the input power frequency (if a.c. operated) need not be varied; and

b. When the equipment includes navigation circuitry which involves the use of audio frequencies in any form between 200 and 2,000 hertz, the bearing error may not exceed that specified in paragraph 2.1a.

3.11 *Radio-frequency susceptibility test (Radiated and Conducted).* When the equipment is subjected to this test—

a. The requirements of paragraph 2.11 must be met, except that the input signal level must be 10 microvolts and the input power frequency (if a.c. operated) need not be varied; and

b. When the equipment includes navigation circuitry which involves the use of audio frequencies in any form between 200 and 2,000 hertz, the bearing error may not exceed that specified in paragraph 2.1a.

3.12 *Explosion test (When Required).* During the application of this test, the equipment may not cause detonation of the explosive mixture within the test chamber.

APPENDIX A

1.0 *Test conditions.* The following definitions of terms and conditions of test are applicable to the test procedures specified herein. In those cases in which it can be

shown that the conditions of test set forth hereinafter are not applicable to a particular receiver, the conditions of test may be modified as required by the design of the receiver.

a. *Power input voltage—Direct current.* Unless otherwise specified, when the receiver is designed for operation from a direct current power source, all measurements must be conducted with the power input voltage adjusted to 13.75 volts, ± 2 percent for 12-14 volt equipment, or to 27.5 volts, ± 2 percent for 24-28 volt equipment. The input voltage must be measured at the receiver power input terminals.

b. *Power input voltage—Alternating current.* Unless otherwise specified, when the equipment is designed for operation from an alternating current power source, all tests must be conducted with the power input voltage adjusted to design voltage ± 2 percent. In the case of receivers designed for operation from a power source of essentially constant frequency (e.g., 400 hertz) the input frequency must be adjusted to design frequency ± 2 percent. In the case of receivers designed for operation from a power source of variable frequency (e.g., 350 to 1,000 hertz) tests must be conducted with the input frequency adjusted to within 5 percent of a selected frequency within the range for which the receiver is designed.

c. *Adjustment of equipment.* The circuits of the equipment under test must be properly aligned and otherwise adjusted in accordance with the manufacturer's recommended practices prior to the application of the specified tests.

d. *Test instrument precautions.* Due precautions must be taken during the conduct of the tests to prevent the introduction of errors resulting from the improper connection of headphones, voltmeters, oscilloscopes, and other test instruments across the input and output impedances of the equipment under test.

e. *Ambient conditions.* Unless otherwise specified, all tests must be conducted under conditions of ambient room temperature, pressure and humidity. However, the room temperature may not be lower than 10° C.

f. *Warm up period.* Unless otherwise specified, all tests must be conducted after a warmup period of not less than 15 minutes.

g. *Connected load.* Unless otherwise specified, all tests must be performed with the equipment connected to loads having the impedance values for which it is designed.

h. *Signal source output.* The signal source output impedance must comprise a resistance within 10 percent and a reactance of not more than 10 percent of the characteristic impedance of the transmission line for which the receiver is designed. The "RF input voltage" is defined as the "open circuit" voltage (hard microvolts) from the signal source. The RF input voltages specified herein are for a receiver designed for a transmission line having a nominal characteristic impedance of 52 ohms. In the case of a receiver designed for a transmission line having a nominal characteristic impedance of other than 52 ohms, the RF input voltage values must be computed according to the following equation:

$$E_2 = \sqrt{\frac{E_1^2 \times R_2}{52}}$$

Where E_2 is the RF input voltage to be used for a receiver designed for a transmission line having a nominal characteristic impedance other than 52 ohms.

E_1 is the RF input voltage specified herein—

R_2 is the nominal characteristic impedance of the transmission line for which the receiver is designed.

1. *Standard test signals.* Unless otherwise specified, the RF input signals must be as follows:

(1) *Standard VOR test signal.* An RF carrier, amplitude modulated simultaneously (a) 30 percent by a 9,960 hertz subcarrier which is, in turn, frequency modulated at a deviation ratio of 16 by a 30 hertz "reference phase signal" and (b) 30 percent by a 30 hertz "variable phase signal" which can be varied in phase with respect to the reference phase signal.

(2) *Standard VOR audio test signal.* A standard VOR test signal to which is added a 1,000 hertz signal amplitude modulating the carrier 30 percent.

(3) *Standard audio test signal.* An RF carrier amplitude modulated 30 percent at 1,000 hertz.

j. *Standard deflection.* Standard deflection is that deflection of the course deviation indicator produced when a standard VOR test signal, having an input level to the equipment under test of 100 μ v, is changed 10° from that which produces an on-course indication.

k. *Receiver sensitivity.* The receiver sensitivity is the minimum level in microvolts of a standard VOR test signal required to produce simultaneously (1) a deflection of the deviation indicator of at least 50 percent of standard deflection, and (2) erratic movement of the deviation indicator due to noise of not more than ± 5 percent of standard deflection. The receiver omni bearing selector must be adjusted to produce standard deflection of the deviation indicator with a standard VOR test signal of 100 μ v.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423, and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 15, 1971.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

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[14 CFR Part 91]

[Docket No. 11451; Notice No. 71-33]

FLIGHT PLANS

Notice of Proposed Rule Making

The Federal Aviation Administration is considering amending Part 91 of the Federal Aviation Regulations to require, with certain exceptions, the use of flight plans for all operations with large U.S. registered civil airplanes and all multi-engine turbine powered U.S. registered civil airplanes when operated within the United States, and which are not subject to Parts 121, 123, 135, or 137.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, GC-24, 800 Independence Avenue SW., Washington, DC 20590. All communications received on or before January 20, 1972, will be considered by the Adminis-

trator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

In recent months the FAA has participated in an in-depth investigation conducted by the Department of Transportation examining charter operations utilizing large airplanes. From that investigation have come several recommendations to amend the Federal Aviation Regulations to enhance the safety of the subject operations as well as aviation safety in general. One such recommendation is the basis for this rule-making action, and is considered by the FAA to be an effective response to the need to enhance the safety of operations involving these aircraft.

Under current Part 91 regulations, a flight plan is required only for operations under IFR in controlled airspace, pursuant to §§ 91.83 and 91.115. Domestic and flag air carrier operations conducted under Part 121 are governed by the dispatch requirements of Subpart U thereof. Supplemental air carrier and commercial operator operations conducted under Part 121 are governed by the flight following requirements of Subpart F, the flight release requirements of Subpart U, and the flight plan requirement of § 121.667. In addition, the flight release requirements of Subpart U of Part 121 applicable to commercial operators (with the exception of § 121.597(a)) also apply to air travel clubs governed by Part 123.

The FAA has long encouraged the use of flight plans and has, through the establishment of Flight Service Stations, taken the necessary steps to provide pilots with all necessary information to make the flight plan an effective adjunct to safety. An important function of the flight plan is to provide a type of flight following that contributes to a higher level of safety through its use in early initiation and efficient conduct of search and rescue operations in the case of overdue or downed aircraft. In addition, a requirement for the preparation of a flight plan will insure that a pilot will apprise himself of all available information pertinent to a particular flight.

Specifically, it is proposed to adopt a new § 91.82 to require that no person may operate a large U.S. registered civil airplane or a multiengine turbine powered U.S. registered civil airplane unless he files an IFR or VFR flight plan, whichever is appropriate for a given flight. This new section would prescribe the general requirement and exceptions for flight plans; while current § 91.83 would prescribe the information required for the flight plan.

Section 91.82, as proposed herein, exempts from the flight plan requirements: Operations conducted under Parts 121, 123, and 135, because they are currently subject to dispatch, flight following, or flight locating requirements; operations conducted under Part 137 because the

local nature of those operations is not such as to require the use of a flight plan; local flights conducted within a 25-mile radius of the airport of departure; and test flights conducted in connections with maintenance or aircraft type certification.

For those situations where FAA communication facilities are not available at the airport of departure, but are available en route, it is proposed to require filing of the flight plan by radio as soon as they become available en route. Thus, in those situations where FAA communication facilities are not available at the airport of departure, and none are available en route, a flight plan would not be required.

Finally, in cases where flights are operated into military airports, it is proposed to permit filing of the cancellation or completion notice required by § 91.83 with the appropriate airport control tower or aeronautical communication facility used for that airport.

In consideration of the foregoing, it is proposed to amend Part 91 of the Federal Aviation Regulations by adding a new section immediately following § 91.81 to read as follows:

§ 91.82 Flight plan: General.

(a) Except as provided in paragraph (b) of this section, no person may operate in controlled airspace under VFR, or in uncontrolled airspace under VFR or IFR, any of the following U.S. registered civil airplanes, unless he files, and the airplane is operated under, an IFR or VFR flight plan, as appropriate:

- (1) A large airplane;
- (2) A multiengine turbopropeller powered airplane; or
- (3) A multiengine turbojet powered airplane.

(b) Paragraph (a) of this section does not apply to the following:

- (1) Operations conducted under Part 121, 123, 135, or 137 of this chapter.
- (2) Local flights conducted within a 25-mile radius of the airport of departure.
- (3) Test flights conducted in connection with maintenance or type certification.
- (4) Flight when conducted from an airport of departure where FAA communication facilities are not available and none are available en route.

(c) If FAA communication facilities are not available at the airport of departure, but are available en route, the person operating the aircraft shall file the flight plan by radio as soon as those facilities become available en route.

(d) When flights are operated into military airports, the cancellation or completion notice required by § 91.83 may be filed with the appropriate airport control tower or aeronautical communication facility used for that airport.

These amendments are proposed under the authority of sections 313(a) and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1421), and section

6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on October 15, 1971.

JAMES F. RUDOLPH,
Director, Flight Standards Service.

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FEDERAL POWER COMMISSION

[18 CFR Parts 101, 104, 201, 204]

[Docket No. R-424]

UNIFORM SYSTEM OF ACCOUNTS AND CERTAIN FORMS

Amendment to Notice of Proposed Rule Making

OCTOBER 13, 1971.

Accounting for premium, discount, and expense of issue, gains and losses on refunding and reacquisition of long-term debt, and interperiod allocation of income taxes; Docket No. R-424.

Pursuant to 5 U.S.C. 553 and to the authority granted the Federal Power Commission by the Federal Power Act, particularly sections 3, 4, 301, 304, and 309 (41 Stat. 1063, 1065, 1353; 46 Stat. 798; 49 Stat. 838, 839, 854, 855, 858; 61 Stat. 501; 16 U.S.C. 796, 797, 825, 825c, 825h) and by the Natural Gas Act, particularly sections 8, 10, and 16 (52 Stat. 825, 826, 830; 15 U.S.C. 717g, 717i, 717o), the notice issued in this proceeding on August 6, 1971 (F.R. Doc. 71-11723, filed August 18, 1971, and published at 36 F.R. 16069, August 19, 1971) is amended as follows:

1. At 36 F.R. page 16071, column 2, August 19, 1971 (F.P.C. notice of proposed rule making, August 6, 1971) following paragraph D of General Instruction 17, add new paragraph E to read:

General Instructions

17. Accounting for Income Taxes.

E. These provisions will not apply in instances where a State or other appropriate regulatory authority specifically disallows normalization of deferred tax effects and requires the flow-through method for ratemaking purposes. A copy of the order or other official authorization from such body, disallowing use of the normalization method, shall be filed with the Commission.

2. At 36 F.R. page 16074, columns 1 and 2, August 19, 1971 (F.P.C. notice of proposed rule making, August 6, 1971) delete *Special Instructions Accumulated Deferred Income Taxes* and substitute the following therefor:

SPECIAL INSTRUCTIONS

ACCUMULATED DEFERRED INCOME TAXES

Before using any of the below deferred tax accounts, refer to General Instruction 17.

Public utilities and licensees shall use the accounts provided below for prior accumulations of deferred taxes on income

and for additional provisions. Account 283 is provided for those specific types of tax deferrals which do not relate to accelerated amortization recorded in account 281 or liberalized depreciation recorded in account 282.

Once deferred tax accounting is initiated with respect to any property recorded in accounts 281 and 282, such accounting shall not be discontinued on that property without Commission approval. Likewise, deferred accounting initiated with respect to items recorded in account 283 shall not be discontinued on that item without Commission approval.

NOTE A: The text of these accounts are designed primarily to cover deferrals of Federal income taxes pursuant to the provisions of the Internal Revenue Code of 1954 and as further amended. However, they are also to be used when making deferrals of State taxes on income.

NOTE B: Public utilities and licensees which, in addition to an electric utility department, have another utility department, gas, water, etc., and nonutility property which have deferred taxes on income with respect thereto shall classify such deferrals in the accounts provided below so as to allow ready identification of items relating to each utility department and to other income and deductions.

NOTE C: These provisions will not apply in instances where a State or other appropriate regulatory authority specifically disallows normalization of deferred tax effects and requires the flow-through method for ratemaking purposes. A copy of the order or other official authorization from such body, disallowing use of the normalization method, shall be filed with the Commission.

3. At 36 F.R. page 16074, column 3, August 19, 1971 (F.P.C. notice of proposed rule making, August 6, 1971) delete paragraph D of account "281, Accumulated deferred income taxes—Accelerated amortization" and redesignate paragraphs E and F as D and E, respectively. Account 281, Accumulated deferred income taxes—Accelerated amortization, in the proposal, will read:

281 Accumulated deferred income taxes—Accelerated amortization.

D. [Redesignated]

E. [Redesignated]

4. At 36 F.R. page 16075, column 1, August 19, 1971 (F.P.C. notice of proposed rule making, August 6, 1971) delete paragraph D of account "282, Accumulated deferred income taxes—Liberalized depreciation" and redesignate paragraph E as D. Account 282, Accumulated deferred income taxes—Liberalized depreciation, in the proposal, will read:

282 Accumulated deferred income taxes—Liberalized depreciation.

D. [Redesignated]

5. At 36 F.R. page 16075, column 2, August 19, 1971 (F.P.C. notice of proposed rule making, August 6, 1971) delete the text of paragraphs A and B of account "283, Accumulated deferred income taxes—Other," and substitute the following therefor:

283 Accumulated deferred income taxes—Other.

A. This account shall be credited and account 410.1, Provision for Deferred Income Taxes, Utility Operating Income, or 410.2, Provision for Deferred Income Taxes, Other Income and Deductions, as appropriate, shall be debited with an amount equal to that by which taxes on income payable for the year are lower because of the current use of deductions other than accelerated amortization or liberalized depreciation in the computation of income taxes, which deductions for general accounting purposes will not be fully reflected in the utility's determination of annual net income until subsequent years. This account shall also be used in instances where an item is included in income for accounting purposes earlier than it is recognized for income tax purposes.

B. This account shall be debited and account 411.1, Provision for Deferred Income Taxes—Credit, Utility Operating Income, or 411.2, Provision for Deferred Income Taxes—Credit, Other Income and Deductions, as appropriate, shall be credited with an amount equal to that by which taxes on income payable for the year are greater because of deferral of taxes on income in previous years, as provided by paragraph A, above, because of difference in timing for tax purposes of particular income deductions or items of income from that recognized by the utility for general accounting purposes, other than with respect to accelerated amortization or liberalized depreciation. Such debit to this account and credit to account 411.1, or 411.2 shall, in general, represent the effect on taxes payable in the current year of the smaller deduction permitted, or the larger amount of income recognized, for tax purposes as compared to the amount recognized in the utility's general accounts with respect to the item or class of items for which deferred tax accounting by the utility was authorized by the Commission.

6. At 36 F.R. page 16079, column 2, August 19, 1971 (F.P.C. notice of proposed rule making, August 6, 1971) following paragraph D of General Instruction 15, add new paragraph E to read:

* * * * *

General Instructions

* * * * *

* * * * *

15. Accounting for Income Taxes

* * * * *

E. These provisions will not apply in instances where a State or other appropriate regulatory authority specifically disallows normalization of deferred tax effects and requires the flow-through method for ratemaking purposes. A copy of the order or other official authorization from such body, disallowing use of the normalization method, shall be filed with the Commission.

7. At 36 F.R. page 16082, column 1, August 19, 1971 (F.P.C. notice of proposed rulemaking, August 6, 1971) delete

Special Instructions Accumulated Deferred Income Taxes and substitute the following therefor:

SPECIAL INSTRUCTIONS

ACCUMULATED DEFERRED INCOME TAXES

Before using any of the below deferred tax accounts, refer to General Instruction 15.

Public utilities and licensees shall use the accounts provided below for prior accumulations of deferred taxes on income and for additional provisions. Account 283 is provided for those specific types of tax deferrals which do not relate to accelerated amortization recorded in account 281 or liberalized depreciation recorded in account 282.

Once deferred tax accounting is initiated with respect to any property recorded in accounts 281 and 282, such accounting shall not be discontinued on that property without Commission approval. Likewise, deferred accounting initiated with respect to items recorded in account 283 shall not be discontinued on that item without Commission approval.

NOTE A: The text of these accounts are designed primarily to cover deferrals of Federal income taxes pursuant to the provisions of the Internal Revenue Code of 1954 and as further amended. However, they are also to be used when making deferrals of State taxes on income.

NOTE B: Public utilities and licensees which, in addition to an electric utility department, have another utility department, gas, water, etc., and nonutility property which have deferred taxes on income with respect thereto shall classify such deferrals in the accounts provided below so as to allow ready identification of items relating to each utility department and to other income and deductions.

NOTE C: These provisions will not apply in instances where a State or other appropriate regulatory authority specifically disallows normalization of deferred tax effects and requires the flow-through method for ratemaking purposes. A copy of the order or other official authorization from such body, disallowing use of the normalization method, shall be filed with the Commission.

8. At 36 F.R. page 16082, column 2, August 19, 1971 (F.P.C. notice of proposed rule making, August 6, 1971) delete paragraph D of account "281, Accumulated deferred income taxes—Accelerated amortization" and redesignate paragraphs E and F as D and E respectively. Account 281, Accumulated deferred income taxes—Accelerated amortization, in the proposal will read:

281 Accumulated deferred income taxes—Accelerated amortization.

* * * * *

D. [Redesignated]

E. [Redesignated]

9. At 36 F.R. page 16083, column 1, August 19, 1971 (F.P.C. notice of proposed rule making, August 6, 1971) delete paragraph D of account "282, Accumulated deferred income taxes—Liberalized depreciation" and redesignate paragraph E as D. Account 282, Accumulated deferred income taxes—Liberalized depreciation, in the proposal, will read:

282 Accumulated deferred income taxes—Liberalized depreciation.

* * * * *

D. [Redesignated]

10. At 36 F.R. page 16083, columns 1 and 2, August 19, 1971 (F.P.C. notice of proposed rule making, August 6, 1971), delete the text of paragraphs A and B of account "283, Accumulated deferred income taxes—Other," and substitute the following therefor:

283 Accumulated deferred income taxes—Other.

A. This account shall be credited and account 410.1, Provision for Deferred Income Taxes, Utility Operating Income, or 410.2, Provision for Deferred Income Taxes, Other Income and Deductions, as appropriate, shall be debited with an amount equal to that by which taxes on income payable for the year are lower because of the current use of deductions other than accelerated amortization or liberalized depreciation in the computation of income taxes, which deductions for general accounting purposes will not be fully reflected in the utility's determination of annual net income until subsequent years. This account shall also be used in instances where an item is included in income for accounting purposes earlier than it is recognized for income tax purposes.

B. This account shall be debited and account 411.1, Provision for Deferred Income Taxes—Credit, Utility Operating Income, or 411.2, Provision for Deferred Income Taxes—Credit, Other Income and Deductions, as appropriate, shall be credited with an amount equal to that by which taxes on income payable for the year are greater because of deferral of taxes on income in previous years, as provided by paragraph A, above, because of difference in timing for tax purposes of particular income deductions or items of income from that recognized by the utility for general accounting purposes, other than with respect to accelerated amortization or liberalized depreciation. Such debit to this account and credit to account 411.1 or 411.2 shall, in general, represent the effect on taxes payable in the current year of the smaller deduction permitted, or the larger amount of income recognized, for tax purposes as compared to the amount recognized in the utility's general accounts with respect to the item or class of items for which deferred tax accounting by the utility was authorized by the Commission.

* * * * *

11. At 36 F.R. page 16091, column 2, August 19, 1971 (F.P.C. notice of proposed rule making, August 6, 1971), following paragraph D of General Instruction 16, add new paragraph E to read:

General Instructions

* * * * *

16. Accounting for income taxes.

* * * * *

E. These provisions will not apply in instances where a State or other appropriate regulatory authority specifically

disallows normalization of deferred tax effects and requires the flow-through method for ratemaking purposes. A copy of the order or other official authorization from such body disallowing use of the normalization method shall be filed with the Commission.

12. At 36 F.R. page 16094, column 2, August 19, 1971 (F.P.C. notice of proposed rule making, August 6, 1971), delete *Special Instructions Accumulated Deferred Income Taxes* and substitute the following therefor:

SPECIAL INSTRUCTIONS

ACCUMULATED DEFERRED INCOME TAXES

Before using any of the below deferred tax accounts refer to General Instruction 16.

Natural gas companies shall use the accounts provided below for prior accumulations of deferred taxes on income and for additional provisions. Account 283 is provided for those specific types of tax deferrals which do not relate to accelerated amortization recorded in account 281 or liberalized depreciation recorded in account 282.

Once deferred tax accounting is initiated with respect to any property recorded in accounts 281 and 282, such accounting shall not be discontinued on that property without Commission approval. Likewise, deferred accounting initiated with respect to items recorded in account 283 shall not be discontinued on that item without Commission approval.

NOTE A: The text of these accounts are designed primarily to cover deferrals of Federal income taxes pursuant to the provisions of the Internal Revenue Code of 1954 and as further amended. However, they are also to be used when making deferrals of State taxes on income.

NOTE B: Natural gas companies which, in addition to a gas utility department, have another utility department, electric, water, etc., and nonutility property which have deferred taxes on income with respect thereto shall classify such deferrals in the accounts provided below so as to allow ready identification of items relating to each utility department and to other income and deductions.

NOTE C: These provisions will not apply in instances where a State or other appropriate regulatory authority specifically disallows normalization of deferred tax effects and requires the flow-through method for ratemaking purposes. A copy of the order or other official authorization from such body, disallowing use of the normalization method, shall be filed with the Commission.

13. At 36 F.R. page 16094, column 3, August 19, 1971 (F.P.C. notice of proposed rule making, August 6, 1971), delete paragraph D of account "281, Accumulated deferred income taxes—Accelerated amortization" and redesignate paragraphs E and F as D and E, respectively. Account 281, Accumulated deferred income taxes—Accelerated amortization, in the proposal, will read:

281 Accumulated deferred income taxes—Accelerated amortization.

D. [Redesignated]

E. [Redesignated]

14. At 36 F.R. page 16095, column 2, August 19, 1971 (F.P.C. notice of proposed rule making, August 6, 1971),

delete paragraph D of account "282, Accumulated deferred income taxes—Liberalized depreciation" and redesignate paragraph E as D. Account 282, Accumulated deferred income taxes—Liberalized depreciation, in the proposal, will read:

282 Accumulated deferred income taxes—Liberalized depreciation.

D. [Redesignated]

15. At 36 F.R. page 16095, columns 2 and 3, August 19, 1971 (F.P.C. notice of proposed rule making, August 6, 1971), delete the text of paragraphs A and B of account "283, Accumulated deferred income taxes—Other," and substitute the following therefor:

283 Accumulated deferred income taxes—Other.

A. This account shall be credited and account 410.1, Provision for Deferred Income Taxes, Utility Operating Income, or 410.2, Provision for Deferred Income Taxes, Other Income and Deductions, as appropriate, shall be debited with an amount equal to that by which taxes on income payable for the year are lower because of the current use of deductions other than accelerated amortization or liberalized depreciation in the computation of income taxes, which deductions for general accounting purposes will not be fully reflected in the utility's determination of annual net income until subsequent years. This account shall also be used in instances where an item is included in income for accounting purposes earlier than it is recognized for income tax purposes.

B. This account shall be debited and account 411.1, Provision for Deferred Income Taxes—Credit, Utility Operating Income, or 411.2, Provision for Deferred Income Taxes—Credit, Other Income and Deductions, as appropriate, shall be credited with an amount equal to that by which taxes on income payable for the year are greater because of deferral of taxes on income in previous years, as provided by paragraph A, above, because of difference in timing for tax purposes of particular income deductions or items of income from that recognized by the utility for general accounting purposes, other than with respect to accelerated amortization or liberalized depreciation. Such debit to this account and credit to account 411.1 or 411.2 shall, in general, represent the effect on taxes payable in the current year of the smaller deduction permitted, or the larger amount of income recognized, for tax purposes as compared to the amount recognized in the utility's general accounts with respect to the item or class of items for which deferred tax accounting by the utility was authorized by the Commission.

16. At 36 F.R. page 16099, column 3, August 19, 1971 (F.P.C. notice of proposed rule making, August 6, 1971), following paragraph D of General Instruction 15, add new paragraph E to read:

General Instructions

15. Accounting for income taxes.

E. These provisions will not apply in instances where a State or other appropriate regulatory authority specifically disallows normalization of deferred tax effects and requires the flow-through method for ratemaking purposes. A copy of the order or other official authorization from such body, disallowing use of the normalization method, shall be filed with the Commission.

17. At 36 F.R. page 16102, columns 2 and 3, August 19, 1971 (F.P.C. notice of proposed rule making, August 6, 1971), delete *Special Instructions Accumulated Deferred Income Taxes* and substitute the following therefor:

SPECIAL INSTRUCTIONS

ACCUMULATED DEFERRED INCOME TAXES

Before using any of the below deferred tax accounts refer to General Instruction 15.

Natural gas companies shall use the accounts provided below for prior accumulations of deferred taxes on income and for additional provisions. Account 283 is provided for those specific types of tax deferrals which do not relate to accelerated amortization recorded in account 281 or liberalized depreciation recorded in account 282.

Once deferred tax accounting is initiated with respect to any property recorded in accounts 281 and 282, such accounting shall not be discontinued on that property without Commission approval. Likewise, deferred accounting initiated with respect to items recorded in account 283 shall not be discontinued on that item without Commission approval.

NOTE A: The text of these accounts are designed primarily to cover deferrals of Federal income taxes pursuant to the provisions of the Internal Revenue Code of 1954 and as further amended. However, they are also to be used when making deferrals of State taxes on income.

NOTE B: Natural gas companies which, in addition to a gas utility department, have another utility department, electric, water, etc., and nonutility property which have deferred taxes on income with respect thereto shall classify such deferrals in the accounts provided below so as to allow ready identification of items relating to each utility department and to other income and deductions.

NOTE C: These provisions will not apply in instances where a State or other appropriate regulatory authority specifically disallows normalization of deferred tax effects and requires the flow-through method for ratemaking purposes. A copy of the order or other official authorization from such body, disallowing use of the normalization method, shall be filed with the Commission.

18. At 36 F.R. page 16103, column 1, August 19, 1971 (F.P.C. notice of proposed rule making, August 6, 1971), delete paragraph D of account "281, Accumulated deferred income taxes—Accelerated amortization" and redesignate paragraphs E and F as D and E, respectively. Account 281, Accumulated deferred income taxes—Accelerated amortization, in the proposal, will read:

281 Accumulated deferred income taxes—Accelerated amortization.

* * * * *
 D. [Redesignated]
 E. [Redesignated]

19. At 36 F.R. 16103, column 2, August 19, 1971 (F.P.C. notice of proposed rule making, August 6, 1971), delete paragraph D of account "282, Accumulated deferred income taxes—Liberalized depreciation" and redesignate paragraph E as D. Account 282, Accumulated deferred income taxes—Liberalized depreciation, in the proposal, will read:

282 Accumulated deferred income taxes—Liberalized depreciation.

* * * * *
 D. [Redesignated]

20. At 36 F.R. page 16103, column 3, August 19, 1971 (F.P.C. notice of proposed rule making, August 6, 1971), delete the text of paragraphs A and B of account "283, Accumulated deferred income taxes—Other," and substitute the following therefor:

283 Accumulated deferred income taxes—Other.

A. This account shall be credited and account 410.1, Provision for Deferred Income Taxes, Utility Operating Income, or 410.2, Provision for Deferred Income Taxes, Other Income and Deductions, as appropriate, shall be debited with an amount equal to that by which taxes on

income payable for the year are lower because of the current use of deductions other than accelerated amortization or liberalized depreciation in the computation of income taxes, which deductions for general accounting purposes will not be fully reflected in the utility's determination of annual net income until subsequent years. This account shall also be used in instances where an item is included in income for accounting purposes earlier than it is recognized for income tax purposes.

B. This account shall be debited and account 411.1, Provision for Deferred Income Taxes—Credit, Utility Operating Income, or 411.2, Provision for Deferred Income Taxes—Credit, Other Income and Deductions, as appropriate, shall be credited with an amount equal to that by which taxes on income payable for the year are greater because of deferral of taxes on income in previous years, as provided by paragraph A, above, because of difference in timing for tax purposes of particular income deductions or items of income from that recognized by the utility for general accounting purposes, other than with respect to accelerated amortization or liberalized depreciation. Such debit to this account and credit to account 411.1 or 411.2 shall, in general, represent the effect on taxes payable in the current year of the smaller deduction permitted, or the larger

amount of income recognized, for tax purposes as compared to the amount recognized in the utility's general accounts with respect to the item or class of items for which deferred tax accounting by the utility was authorized by the Commission.

* * * * *
 21. At 36 F.R. page 16069, center column, lines 3 and 4 from bottom of page, August 19, 1971 (F.P.C. notice of proposed rule making), delete the phrase in parenthesis, i.e., "(and unamortized gain and loss on reacquired debt)."

Pursuant to the Secretary's notice of September 27, 1971 (36 F.R. 19443 October 6, 1971) extending the time for filing comments in this rulemaking proceeding, interested persons have to, and including April 4, 1972, in which to submit data, views, comments or suggestions, in writing, to the notice of proposed rule making of August 6, 1971, as amended by this notice issued October 13, 1971.

The Secretary shall cause prompt publication to be made in the FEDERAL REGISTER of this notice amending the initial notice of proposed rule making in this proceeding issued August 6, 1971.

By direction of the Commission.

KENNETH F. PLUMB,
 Secretary.

[FR Doc.71-15362 Filed 10-21-71;8:45 am]

Notices

DEPARTMENT OF THE TREASURY

Bureau of Customs

[T.D. 71-218]

CUSTOMS DISTRICT OFFICES

List of Addresses; Correction

OCTOBER 15, 1971.

In T.D. 71-218, published in the FEDERAL REGISTER of August 25, 1971 (36 F.R. 16699), the address of the Customs district office in Miami, Fla., is corrected to read:

10th Northeast Seventh Street, Miami, FL 33132

[SEAL] LEONARD LEEHMAN,
Acting Commissioner of Customs.

[FR Doc. 71-15438 Filed 10-21-71; 8:51 am]

Internal Revenue Service

CARLETON DEW ADAMS ET AL.

Notice of Granting of Relief

Notice is hereby given that pursuant to 18 U.S.C. 925(c) the following named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding 1 year.

It has been established to my satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicant will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public safety.

Carleton Dew Adams, 1411 Wilson Avenue, Bellingham, WA, convicted on January 10, 1969, in the superior court of the State of Washington for Whatcom County.

Eugene Marvin Andrews, 2704 Illinois Avenue, Topeka, KS, convicted on February 8, 1950; and on April 23, 1957, in the Shawnee County district court, Topeka, Kans.

Orlando Caruso, 6084 Florida Avenue, Detroit, MI, convicted on June 29, 1953, by the Wayne County circuit court, Detroit, Mich.

James W. Delaney, 3318 Spruce Street, Everett, WA, convicted on January 16, 1969, by the superior court of Snohomish County, Wash.

Oscar M. Floyd, 17147 Greenlawn Street, Detroit, MI, convicted on April 11, 1935, in the recorder's court for the city of Detroit, Mich.

Elmer N. Garitson, 1745 Westwood Northern Boulevard, Cincinnati, OH, convicted on March 15, 1954, in the police and municipal court, Middletown, Ohio; and on March 12, 1958, in the Butler County court of common pleas, Ohio.

Lester Sylvan Gordon, 3000 Homespun Avenue, Virginia Beach, VA, convicted on September 23, 1953, by a general court martial

convened by Headquarters, United States Army, Europe, at Garmisch, Germany.
Corene Grigsby, 2701 Chrysler Freeway, Detroit, MI, convicted on April 22, 1937, in the recorder's court for the city of Detroit, Mich.

Orvin Hedquist, Route 1, Box 209A, Clear Lake, WI, convicted on January 17, 1962, in the Polk County court, Balsam Lake, Wis.
Louis L. Lapidow, 129 Prospect Parkway, Burlington, VT, convicted on March 13, 1939, in the court of general sessions, New York City, N.Y.

James Lewis, 3816 Bewick Avenue, Detroit, MI, convicted on May 20, 1948, in municipal court, Milwaukee, Wis.

Wayne B. Lively, 6018 86th Street, Northeast, Marysville, WA, convicted on November 15, 1963, and on August 28, 1964, in the Snohomish County superior court, Everett, Wash.

Lawrence James Lukowski, 803 18th Street, Bay City, MI, convicted on March 31, 1958, by the Bay County circuit court, Bay City, Mich.

Earl Weston Marlett, 2234 Robinwood, Fort Worth, TX, convicted on February 25, 1964, by the superior court of Kern County, Calif.

Louis B. Mauro, 2412 Crotona Avenue, Bronx, NY, convicted on June 2, 1932, in court of quarter sessions, Hudson County, N.J.; on June 8, 1933, in Westchester County court, Westchester County, N.Y.; and on October 19, 1938, in Westchester County court, Westchester County, N.Y.

Robert S. Nolen, General Delivery, Sayre, AL, convicted on April 3, 1969, by the 10th judicial circuit court of Alabama.

Buford C. Nuckols, 6424 Worthington Road, Richmond, VA, convicted on February 17, 1956, in the Essex County circuit court, Tappahannock, Va.; on May 10, 1956, in the Hastings court of Richmond, Va.; and on February 24, 1956, in the Chesterfield County circuit court, Chesterfield, Va.

Sanford James Fangburn, 1409 North Street, Hobart, IN, convicted on November 12, 1957, in the criminal court in Crown Point, Lake County, Ind.

Steven Michael Pessert, 20496 Delaware Street, Detroit, MI, convicted on March 19, 1956, in the Oakland County, Mich., circuit court; and on May 20, 1959, in the Wayne County, Mich., circuit court.

Edward R. Powell, 309 W. 16th Street, N., Newton, IA, convicted on December 13, 1948, in the Jasper County district court, Newton, Iowa.

Ernest Donald Premoe, 5521 Forest Drive, Monroe, MI, convicted on April 2, 1948, in the circuit court of Charlevoix County, Mich.

Edward J. Tierney, 857 Hudson Road, St. Paul, MN, convicted on April 28, 1937, in the Ramsey County district court, St. Paul, Minn.

Watkins-Sydnor, Inc., Henderson, N.C., convicted on February 12, 1959, in the United States District Court for the Eastern District of North Carolina, Raleigh division.

David Clay Wilson, Route 2, Box 26A, Axton, VA, convicted on April 10, 1969, in Henry County circuit court, Martinsville, Va.

Signed at Washington, D.C., this 15th day of October 1971.

[SEAL] REX D. DAVIS,
*Director, Alcohol, Tobacco and
Firearms Division.*

[FR Doc. 71-15417 Filed 10-21-71; 8:49 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A 6376]

ARIZONA

Notice of Proposed Withdrawal and Reservation of Lands

The Forest Service, U.S. Department of Agriculture, has filed an application, serial number A 6376, for withdrawal of lands from mineral location and entry under the mining laws, but not the mineral leasing laws, subject to valid existing rights.

The Forest Service desires these lands for recreation areas and administrative sites within the Coronado National Forest, in aid of programs of the Department of Agriculture.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, 3022 Federal Building, Phoenix, Ariz. 85025.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in this application are:

GILA AND SALT RIVER MERIDIAN, ARIZONA

West Peak Lookout and Administrative Site

T. 8 S., R. 23 E. (unsurveyed).

In sec. 18—beginning at a point which bears S. 48°10' W., 6.56 chs. from the West Peak Triangulation Station; thence N. 04°01' W., 9.79 chs.; thence N. 80°05' E., 12.96 chs.; thence S. 19°40' W., 10.42 chs.; thence S. 52°13' W., 6.24 chs.; thence N. 66°13' W., 3.98 chs. to the point of beginning.

The area described aggregates approximately 11.24 acres and is located at the terminus of the west segment of Forest Road 286 in Graham County. The site gives coverage for the west end of Graham Mountains and portions of the Santa Teresa Galluro, Winchester and Greasewood Mountains. The site may also be used for electronic special purposes.

Riggs Flat

T. 8 S., R. 23 E. (unsurveyed).

In secs. 23, 26, and 35—beginning at a point which lies N. 0°1' W., 337.50 chs. from the section corner common to secs. 13, 14, 23, and 24, T. 9 S., R. 23 E., thence S. 60°30' W., 11.91 chs.; thence S. 57°15' W., 22.94 chs.; thence S. 79°46' W., 10.96 chs.; thence N. 34°0' W., 8.72 chs.; thence N. 03°28' W., 11.72 chs.; thence N. 83°55' W., 22.78 chs.; thence N. 16°55' E., 25.37

chs.; thence north, 14.69 chs.; thence N. 08°45' E., 17.56 chs.; thence S. 89°15' E., 9.54 chs.; thence S. 02°0' E., 17.59 chs.; thence S. 18°45' E., 7.06 chs.; thence S. 54°23' E., 10.41 chs.; thence S. 13°0' E., 4.50 chs.; thence S. 30°0' E., 6.15 chs.; thence N. 65°0' E., 5.54 chs.; thence S. 20°05' E., 6.57 chs.; thence S. 89°0' E., 4.45 chs.; thence S. 36°0' E., 19.84 chs.; thence S. 03°55' E., 13.80 chs. to the point of beginning.

The area described aggregates approximately 290.56 acres, about 41 miles southwest of Safford, Ariz., in Graham County, and is being used for a public campground and picnic ground.

High Peak Potential Recreation Site

T. 8 S., R. 24 E. (unsurveyed),
In secs. 27, 34, 35—beginning at a point which lies N. 32°05' E., 13.7 chs. from the Mt. Graham Triangulation Station; thence S. 14°0' E., 5.21 chs.; thence S. 19°08' W., 11.17 chs.; thence S. 08°02' W., 8.48 chs.; thence S. 10°0' E., 39.80 chs.; thence N. 78°30' W., 3.32 chs.; thence N. 37°38' W., 10.07 chs.; thence N. 22°55' W., 13.24 chs.; thence N. 23°20' W., 5.93 chs.; thence N. 16°04' W., 7.04 chs.; thence N. 05°55' W., 17.06 chs.; thence N. 18°05' E., 7.30 chs.; thence N. 55°30' E., 4.92 chs.; thence N. 72°28' E., 11.51 chs. to the point of beginning.

The area described aggregates approximately 70.73 acres in Graham County; the highest point on the Coronado National Forest. Access to the site is via spur road from the Swift Trail. The main use is as a vista point; and anticipated future use will depend on the installation of a proposed ski area which would include related facilities.

Snow Flat

T. 9 S., R. 24 E. (unsurveyed),
In sec. 14—beginning at a point which lies N. 58°32' W., 66.98 chs. from Hellograph Peak Triangulation Station; thence S. 23°52' W., 8.12 chs.; thence S. 38°02' E., 7.66 chs.; thence S. 25°40' W., 3.81 chs.; thence S. 34°21' E., 2.79 chs.; thence S. 33°00' W., 6.72 chs.; thence S. 16°33' E., 8.07 chs.; thence S. 75°10' W., 15.10 chs.; thence N. 46°02' W., 6.44 chs.; thence N. 06°33' W., 12.62 chs.; thence N. 11°29' W., 16.84 chs.; thence N. 46°20' E., 2.99 chs.; thence S. 59°38' E., 7.75 chs.; thence N. 39°40' E., 6.38 chs.; thence S. 89°15' E., 11.12 chs. to the point of beginning.

The area described aggregates approximately 67.92 acres along Forest Road 5472 in Graham County. Lands will be utilized for camping, picnicking, and fishing in the Snow Flat Reservoir.

Hellograph Electronic Site and Forest Service Lookout

T. 9 S., R. 24 E. (unsurveyed),
In sec. 13—beginning at a point which lies N. 64°00' W., 7.0 chs. from Hellograph Peak Triangulation Station; thence N. 53°40' E., 6.18 chs.; thence S. 67°17' E., 2.75 chs.; thence S. 48°38' E., 7.06 chs.; thence S. 20°02' E., 4.36 chs.; thence S. 55°55' W., 11.61 chs.; thence N. 31°58' W., 9.73 chs.; thence N. 05°58' E., 4.43 chs. to the point of beginning.

The area described aggregates approximately 14.58 acres at the terminus of Forest Service Road 5352 in Graham County. Lands will be utilized for radio and microwave repeaters, and television relay which will provide good coverage

of the Safford district from fire lookout tower.

Hospital Flat—Treasure Park

T. 9 S., R. 24 E. (unsurveyed),
In secs. 10, 11, 14, and 15—beginning at a point which lies N. 52°47' W., 106.65 chs. from Hellograph Peak Triangulation Station; thence S. 46°05' W., 13.69 chs.; thence S. 25°58' W., 15.14 chs.; thence S. 52°31' W., 12.69 chs.; thence S. 16°40' W., 12.40 chs.; thence N. 69°43' W., 12.19 chs.; thence N. 13°10' W., 7.19 chs.; thence N. 25°22' W., 9.84 chs.; thence N. 09°15' W., 8.20 chs.; thence N. 16°05' W., 17.06 chs.; thence N. 46°55' W., 9.68 chs.; thence N. 09°23' W., 14.99 chs.; thence N. 00°50' W., 12.83 chs.; thence N. 56°29' E., 6.10 chs.; thence N. 24°0' E., 3.03 chs.; thence N. 48°55' E., 7.11 chs.; thence S. 32°00' E., 5.04 chs.; thence S. 28°58' E., 12.48 chs.; thence S. 39°00' E., 5.15 chs.; thence N. 87°00' E., 9.98 chs.; thence N. 14°50' E., 3.53 chs.; thence N. 01°45' W., 6.31 chs.; thence N. 06°25' E., 12.46 chs.; thence N. 85°00' E., 3.67 chs.; thence S. 25°55' E., 7.24 chs.; thence S. 11°28' E., 9.71 chs.; thence S. 59°01' W., 6.88 chs.; thence S. 22°00' W., 9.01 chs.; thence S. 06°35' E., 7.00 chs.; thence S. 73°15' E., 6.41 chs.; thence N. 66°50' E., 2.85 chs.; thence S. 75°00' E., 2.24 chs.; thence N. 72°02' E., 3.97 chs.; thence S. 33°20' E., 4.94 chs.; thence S. 88°52' E., 4.89 chs.; thence S. 28°45' E., 8.86 chs.; thence S. 09°10' E., 3.80 chs.; to the point of beginning.

The area described aggregates approximately 293.71 acres 30 miles southwest of Stafford, Ariz. in Graham County, for camping, hiking, and possible fishing and boating.

Southern Arizona Bible Camp

T. 8 S., R. 24 E. (unsurveyed),
In secs. 21 and 28—beginning at a point which lies N. 65°03' E., 100.85 chs. from Webb Peak Triangulation Station; thence N. 57°37' E., 25.80 chs.; thence S. 38°33' E., 5.00 chs.; thence S. 28°29' W., 28.06 chs.; thence S. 84°57' E., 6.34 chs.; thence S. 05°02' E., 10.32 chs.; thence S. 13°55' E., 8.21 chs.; thence S. 46°50' W., 7.73 chs.; thence N. 40°0' W., 21.68 chs.; thence N. 02°55' W., 22.27 chs. to the point of beginning.

The area described aggregates approximately 69.06 acres located on Forest Road 5508 in Graham County. Lands will be utilized for a lodge messhall and two bathhouses for a youth camp and facilities for staff members.

Columbine Administrative Site

T. 8 S., R. 24 E. (unsurveyed),
In secs. 29 and 32—beginning at a point which lies S. 29°35' E., 54.0 chs. from Webb Peak Triangulation Station; thence N. 17°55' E., 9.71 chs.; thence N. 66°05' E., 7.44 chs.; thence S. 81°08' E., 6.30 chs.; thence S. 45°28' E., 20.26 chs.; thence S. 08°30' E., 6.47 chs.; thence S. 22°32' W., 7.80 chs.; thence S. 75°05' W., 6.87 chs.; thence N. 42°55' W., 4.86 chs.; thence N. 07°30' W., 7.93 chs.; thence N. 55°05' W., 9.30 chs.; thence N. 81°03' W., 9.93 chs. to the point of beginning.

The area described aggregates approximately 47.45 acres, 30 miles east of U.S. 666 on Arizona Highway 366. Lands are to be utilized as a work center for district seasonal employees and public use for recreation and fire control programs.

Arcadia Recreation Area

T. 9 S., R. 25 E. (unsurveyed),
In secs. 17 and 18—beginning at a point which lies S. 89°10' E., 124.0 chs. from Hellograph Peak; thence N. 74°00' E., 7.81 chs.; thence S. 88°30' E., 19.17 chs.; thence S. 03°04' E., 16.38 chs.; thence S. 75°00' W., 10.79 chs.; thence S. 60°42' W., 10.24 chs.; thence N. 30°00' W., 15.78 chs.; N. 02°02' W., 8.86 chs. to the point of beginning.

The area described aggregates approximately 51.04 acres on Arizona Highway 366, 11.5 miles west of its junction with U.S. Highway 666. Lands will be utilized for a campground for snow play and sledding.

The total areas described above aggregate approximately 916.20 acres in Graham County.

2. The proposed withdrawal made by this proposed order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

RILEY E. FOREMAN,
Acting State Director.

OCTOBER 15, 1971.

[FR Doc.71-15344 Filed 10-21-71;8:45 am]

PROPOSED JIM BRIDGER PROJECT, IDAHO AND WYOMING

Notice of Availability of Draft Environmental Statement

A draft environmental statement pursuant to sec. 102(2)(c) of the National Environmental Policy Act (42 U.S.C. 4322 (2)(c)) has been prepared to obtain review of the Jim Bridger Project prior to issuance of right-of-way permits which will authorize construction of transmission lines across public lands in the States of Idaho and Wyoming.

The project includes a 1500 MW coal-fired steam-electric generating plant, a strip mine, a 42-mile water delivery system, road and rail access, and three 345 KV transmission lines extending 235 miles east from the generator site near Rock Springs, Wyoming, into Blingham and Bannock Counties, Idaho.

Copies of the draft statement may be obtained from the following offices at \$2.50 per copy:

Idaho State Office, Bureau of Land Management, Room 334, Federal Building, 550 West Fort Street, Boise, ID 83702, telephone: (208) 324-2401.

Wyoming State Office, Bureau of Land Management, U.S. Post Office and Courthouse Building, 2120 Capitol Avenue, Post Office Box 1828, Cheyenne, WY 82001, telephone: (307) 778-2326.

Rock Springs District Office, Bureau of Land Management, Post Office Box 1088, 13 Elk Street, Rock Springs, WY 82001, telephone: (302) 362-6613.

Comments on the draft statement should be returned to Wyoming State Director, BLM, Cheyenne, Wyo. All

comments received within forty-five (45) days of the date of this notice will be considered in the preparation of the final statement.

Dated: October 15, 1971.

JOHN W. LARSON,
Assistant Secretary of the Interior.

[FR Doc.71-15390 Filed 10-21-71;8:47 am]

Office of the Secretary

[Order No. 2508, Amdt. 93]

COMMISSIONER OF INDIAN AFFAIRS

Delegation of Authority With Respect to Specific Legislation

Section 30 of Order 2508, as amended, is further amended by the addition under paragraph (a) of a new subparagraph to read as follows:

Sec. 30. *Authority under specific acts.* (a) In addition to any authority delegated elsewhere in this order, the Commissioner of Indian Affairs, except as provided in paragraph (b) of this section, is authorized to perform the functions and exercise the authority vested in the Secretary of the Interior by the following acts or portions of acts or any acts amendatory thereof:

(52) Section 2, which permits title to land acquired by a tribe or tribal corporation be taken by the United States in trust for a tribe or tribal corporation; and section 3, which permits a tribe or tribal corporation to mortgage or otherwise hypothecate trust or restricted property; of the Act of April 11, 1970, Public Law 91-229 (84 Stat. 120), authorizing loans to be made or insured by the Farmers Home Administration to any Indian tribe or tribal corporation to acquire lands within the tribe's reservation.

ROGERS C. B. MORTON,
Secretary of the Interior.

OCTOBER 15, 1971.

[FR Doc.71-15384 Filed 10-21-71;8:46 am]

**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

Food and Drug Administration

BORDEN, INC.

Pasteurized Process Cheese Product Deviating From Identity Standards; Temporary Permit for Market Testing

Pursuant to § 10.5 (21 CFR 10.5) concerning temporary permits to facilitate market testing of foods deviating from the requirements of standards of identity promulgated pursuant to section 401 (21 U.S.C. 341) of the Federal Food, Drug, and Cosmetic Act, notice is given that a temporary permit has been issued to Borden, Inc., 277 Park Avenue, New York, N.Y. 10017. This permit covers limited interstate marketing tests of a

pasteurized process cheese product that deviates from identity standards prescribed in §§ 19.750 and 19.765 (21 CFR 19.750 and 19.765), in that it contains skim milk cheese as part of the total cheese ingredient, is significantly lower in fat and higher in moisture, and contains enzyme modified cheese.

The principal display panel of the label will bear the name "Pasteurized Process Cheese Product—Skim Milk and American Cheeses," and all ingredients will be appropriately listed in the ingredient statement on the label.

This permit expires 12 months from the date of signature of this document.

Dated: October 13, 1971.

SAM D. FINE,
*Associate Commissioner
for Compliance.*

[FR Doc.71-15401 Filed 10-21-71;8:47 am]

[Docket No. FDC-D-345; NADA No. 9-242V]

HESS AND CLARK

Cadmium Anthranilate; Notice of Withdrawal of Approval of New Animal Drug Application

A notice of opportunity for a hearing was published in the FEDERAL REGISTER of August 3, 1971 (36 F.R. 14278), proposing to withdraw approval of NADA (new animal drug application) No. 9-242V, Cadmium Wormer for Hogs (a product which contains cadmium anthranilate as the active ingredient).

Hess and Clark, Division of Richardson-Merrell, Inc., Ashland, Ohio 44805, did not file a request for a hearing within the 30-day period provided for such filing in said notice. This is construed as an election by Hess and Clark not to avail themselves of the opportunity for a hearing.

Based on the grounds set forth in the notice of opportunity for a hearing and the firm's waiver of the opportunity for a hearing, the Commissioner of Food and Drugs concludes that approval of said new animal drug application should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-351; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), approval of NADA No. 9-242V, including all amendments and supplements thereto, is withdrawn effective on the date of publication of this document.

Dated: October 13, 1971.

SAM D. FINE,
*Associate Commissioner
for Compliance.*

[FR Doc.71-15399 Filed 10-21-71;8:49 am]

[FDC-D-383]

NEOMYCIN-SULFACETAMIDE OPHTHALMIC OINTMENT WITH AND WITHOUT HYDROCORTISONE

Notice of Drugs Deemed Adulterated

An announcement concerning the products Sulfacaine Ophthalmic Oint-

ment with Neomycin and Sulfacaine Ophthalmic Ointment with Hydrocortisone and Neomycin was published in the FEDERAL REGISTER of August 12, 1970 (35 F.R. 12792, DESI 12-4NV). Said announcement set forth the findings of the Food and Drug Administration following evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, that these eye preparations are probably not effective for veterinary use.

Said announcement informed the manufacturer and all interested persons that such drugs to be marketed must be the subject of approved new animal drug application. Day-Baldwin, Inc., Hillside, N.J. 07025, manufacturer of the above-listed drugs, did not respond or submit new animal drug applications for the above-named drugs.

Based on the foregoing, and on the information before him, the Commissioner of Food and Drugs concludes that the above-named drugs are adulterated within the meaning of section 501(a)(5) of the Federal Food, Drug, and Cosmetic Act, in that they are not the subjects of approved new animal drug applications pursuant to section 512 of the act. Therefore, notice is given to Day-Baldwin, Inc., and to all interested persons, that all stocks of said drugs within the jurisdiction of the act are deemed adulterated within the meaning of the act and are subject to appropriate regulatory action.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 501(a)(5), 512, 52 Stat. 1049, as amended, 82 Stat. 343-51; 21 U.S.C. 351(a)(5), 360b) and under the authority delegated to the Commissioner (21 CFR 2.120).

Dated: October 6, 1971.

SAM D. FINE,
*Associate Commissioner
for Compliance.*

[FR Doc.71-15404 Filed 10-21-71;8:49 am]

[DESI 7913; Docket No. FDC-D-323;
NDA 7-913]

CERTAIN STEROID PREPARATIONS FOR OPHTHALMIC AND/OR OTIC USE

Drugs for Human Use; Drug Efficacy Study Implementation

The Food and Drug Administration has evaluated reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs for ophthalmic and/or otic use:

1. Cortisone Acetate Ophthalmic Ointment containing cortisone acetate; The Upjohn Co., 7171 Portage Road, Kalamazoo, MI 49002 (NDA 8-765).

2. Cortisone Acetate Ophthalmic Suspension containing cortisone acetate; Merck Sharp & Dohme, Division of Merck & Co., Inc., West Point, Pa. 19386 (NDA 7-913).

3. Hydrocortone Ophthalmic Ointment and Suspension containing hydro-

cortisone acetate; Merck Sharp & Dohme (NDA 9-018).

4. Hydetrasol Ophthalmic Solution (NDA 10-639) and Ointment (NDA 11-028) containing prednisolone sodium phosphate; Merck Sharp & Dohme.

5. Maxidex Ophthalmic Suspension containing 0.1 percent dexamethasone; Alcon Laboratories, Inc., 6201 South Freeway, Fort Worth, TX 76134 (NDA 13-422).

6. Decadron Phosphate Ophthalmic Solution containing 0.1 percent dexamethasone sodium phosphate; Merck Sharp & Dohme (NDA 11-984).

7. Decadron Phosphate Ophthalmic Ointment containing 0.05 percent dexamethasone sodium phosphate; Merck Sharp & Dohme (NDA 11-977).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. A new drug application is required from any person marketing such drug without approval.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy reports, as well as other available evidence and concludes that:

1. These drugs are effective or probably effective for the indications listed in the "Indications" section of this announcement.

2. a. These drugs are probably effective for the treatment of radiation injury of the cornea.

b. Dexamethasone sodium phosphate 0.05 percent is also probably effective for the treatment of steroid responsive conditions of the external ear.

3. These drugs lack substantial evidence of effectiveness for use in mustard gas keratitis and Sjogren's keratoconjunctivitis (with systemic steroids).

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* These preparations are in ointment, sterile aqueous solution, or sterile aqueous suspension forms suitable for ophthalmic and/or otic administration.

2. *Labeling conditions.* a. The labels bear the statement "Caution: Federal law prohibits dispensing without prescription." Labels for solutions or suspensions state that the preparation is sterile. Labels for ointments state whether or not the preparation is sterile.

b. The drugs are labeled to comply with all requirements of the Act and regulations. Their labeling bears adequate information for safe and effective use of the drugs and is in accord with the effectiveness classification, the guidelines for uniform labeling published in the FEDERAL REGISTER of February 6, 1970, and where applicable, the Academy's comments. The "Indications" sections of the labeling are as follows:

INDICATIONS

For the treatment of the following conditions:

Ophthalmic:

Steroid responsive inflammatory conditions of the palpebral and bulbar conjunctiva, cornea, and anterior segment of the globe, such as allergic conjunctivitis, acne rosacea, superficial punctate keratitis, herpes zoster keratitis, iritis, cyclitis, selected infective conjunctivitis when the inherent hazard of steroid use is accepted to obtain an advisable diminution in edema and inflammation; corneal injury from chemical, radiation, or thermal burns, or penetration of foreign bodies.

Otic

Steroid responsive inflammatory conditions of the external auditory meatus, such as allergic otitis externa, selected purulent and nonpurulent infective otitis externa when the hazard of steroid use is accepted to obtain an advisable diminution in edema and inflammation.

c. The "Warnings" section for these drugs should include the following statement:

These drugs are not effective in mustard gas keratitis, and Sjogren's keratoconjunctivitis.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study" published in the FEDERAL REGISTER July 14, 1970 (35 F.R. 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for updating information as described in paragraphs (a) (1) (i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application as described in paragraph (a) (3) (i) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

d. For indications for which the drug has been classified as probably effective (included in the "Indications" section above), continued use as described in paragraphs (c), (e), and (f) of that notice.

C. *Opportunity for a hearing.* 1. The Commissioner of Food and Drugs proposes to issue an order under the provisions of section 505(e) of the Federal Food, Drug, and Cosmetic Act withdrawing approval of all new drug applications and all amendments and supplements thereto providing for the indications for which substantial evidence of effectiveness is lacking as described in paragraph A.3. of this announcement. An order withdrawing approval of the applications will not issue if such applications are supplemented, in accord with this notice, to delete such indications. Any related drug for human use, not the subject of an approved new drug application, of-

ferred for the indications for which substantial evidence of effectiveness is lacking may be affected by this action.

2. In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner will give the holders of any such applications, and any interested person who would be adversely affected by such an order, an opportunity for a hearing to show why such indications should not be deleted from labeling. A request for a hearing must be filed within 30 days after the date of publication of this notice in the FEDERAL REGISTER.

3. A request for a hearing may not rest upon mere allegations or denials but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing, together with a well-organized and full-factual analysis of the clinical and other investigational data that the objector is prepared to prove in a hearing. Any data submitted in response to this notice must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in section 130.12(a)(6) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 F.R. 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

4. If a hearing is requested and is justified by the response to this notice, the issues will be defined, a hearing examiner will be named, and he shall issue a written notice of the time and place at which the hearing will commence.

A copy of the Academy's report has been furnished to each firm referred to above. Communications forwarded in response to this announcement should be identified with the reference No. DESI 7913, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852:

Supplements (identify with NDA number):
Office of Scientific Evaluation (BD-100),
Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Drug Efficacy Study Implementation Project Office (BD-60),
Bureau of Drugs.

Request for hearing (identify with docket number): Hearing Clerk, Office of General Counsel (GC-1), Room 6-88, Parklawn Building.

Requests for the Academy's report: Drug Efficacy Study Information Control (BD-67),
Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60),
Bureau of Drugs.

Received requests for a hearing may be seen in the office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated: September 30, 1971.

R. E. DUGGAN,
Acting Associate Commissioner
for Compliance.

[FR Doc.71-15403 Filed 10-21-71;8:48 am]

ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

HIGHLIGHTS LISTING

Notice of Exceptions

Section 16.25(b) of Title 1 of the Code of Federal Regulations authorizes the Director of the Federal Register to grant exceptions to the highlights listing requirement of § 16.25(a). Additional exceptions are required to be published in the FEDERAL REGISTER and this is the fourth such publication (see 36 F.R. 7757; Apr. 24, 1971; 36 F.R. 11822, June 19, 1971; 36 F.R. 13709, July 23, 1971).

The list of exceptions granted by the Director is periodically reviewed and modifications are made where warranted. Public and official comments are invited and should be submitted to: Director of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408. A public docket is maintained containing all correspondence concerning exceptions from the highlights requirement. This docket is available for inspection at the Office of the Federal Register, 633 Indiana Avenue NW., Washington, D.C., Monday through Friday, 8:45 a.m. to 5:15 p.m.

The following exceptions are added to the list published at 36 F.R. 11822, June 19, 1971:

Exemption No.	Agency	Class of documents
SPECIFIC AGENCY EXCEPTIONS		
71-114...	Forest Service, Department of Agriculture.	National Forests boundary changes.
71-115...	Coast Guard, Department of Transportation.	Drawbridge operations (33 CFR Part 117).

Dated: October 18, 1971.

FRED J. EMERY,
Director of the Federal Register.

[FR Doc.71-15381 Filed 10-21-71;8:46 am]

ATOMIC ENERGY COMMISSION

[Dockets Nos. 50-400, 50-401, 50-402, 50-403]

CAROLINA POWER & LIGHT CO.

Notice of Receipt of Application for Construction Permits and Facility Licenses; Time for Submission of Views on Antitrust Matters

Carolina Power & Light Co., 336 Fayetteville Street, Raleigh, NC 27602, pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed an application on September 7, 1971, for authorization to construct and operate four pressurized water nuclear reactors designated as Shearon Harris Nuclear Power Plant, units 1, 2, 3, and 4, on the applicant's site in Wake and Chatham Counties, NC.

The site is located on approximately 18,000 acres of land in the southwest corner of Wake County, and the southeast corner of Chatham County, N.C. The city of Raleigh, N.C., is approximately 20 miles northeast of the site, and Sanford, N.C., is about 10 miles southwest. The applicant will construct a dam on Buckhorn Creek about 1 mile north of its confluence with the Cape Fear River. This dam will create a 10,000 acre reservoir which will be used for cooling water requirements for the plant. The nuclear units will be located on a peninsula on the northwest shore of the reservoir about 3½ miles north of the main dam.

Each of the four units will be designed for an initial power output of 2,785 megawatts thermal, with an equivalent net electrical output of approximately 900 megawatts electrical.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the Commission within sixty (60) days after October 22, 1971.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and a copy has been sent to Mr. H. William O'Shea, Director, Wake County Public Libraries, 104 Fayetteville Street, Raleigh, NC 27601.

Dated at Bethesda, Md., this 29th day of September 1971.

For the Atomic Energy Commission.

PETER A. MORRIS,
Director,
Division of Reactor Licensing.

[FR Doc.71-14552 Filed 10-21-71;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket No. 23105]

AIR CAICOS LTD.

Notice of Postponement of Prehearing Conference

The prehearing conference in this proceeding now scheduled for October 22, 1971, is hereby postponed until October 29, 1971, at 10 a.m., local time, in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, DC, before the undersigned examiner.

Dated at Washington, D.C., October 20, 1971.

[SEAL] JOSEPH L. FITZMAURICE,
Hearing Examiner.

[FR Doc.71-15528 Filed 10-21-71;11:12 am]

[Docket No. 22419, etc.]

HOUSTON-MONTERREY-MEXICO CITY SERVICE CASE

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be held before the Board on November 16, 1971, at 2 p.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC.

Dated at Washington, D.C., October 18, 1971.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.71-15422 Filed 10-21-71;8:49 am]

[Docket No. 22628; Order 71-10-70]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Fares

Issued under delegated authority October 18, 1971.

Agreement adopted by Joint Conference 1-2-3 of the International Air Transport Association relating to fare matters; Docket No. 22628, Agreement CAB 22687.

By Order 71-9-121, dated September 30, 1971, action was deferred, with a view toward eventual approval, on an agreement adopted by Joint Conference 1-2-3 of the International Air Transport Association (IATA). The agreement would amend an existing IATA resolution governing mixed class aircraft by permitting Air Afrique to reconfigure Caravelle IIR aircraft.

In deferring action on the agreement, 10 days were granted in which interested persons might file petitions in support of or in opposition to the proposed action. No petitions have been received within the filing period and the tentative conclusions in Order 71-9-121 will herein be made final.

Accordingly, it is ordered, That: Agreement CAB 22687 be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.
[FR Doc.71-15427 Filed 10-21-71;8:49 am]

[Docket No. 22628; Order 71-10-73]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Regarding Delayed Inaugural Flights

Issued under delegated authority October 18, 1971.

Agreement adopted by Joint Conference 1-2 of the International Air Transport Association relating to delayed inaugural flights; Docket 22628, Agreement CAB 22733.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of Joint Conference 1-2 of the International Air Transport Association (IATA) and adopted by mail vote. The agreement has been assigned the above-designated CAB agreement number.

The agreement permits El Al to postpone to a date not later than January 28, 1972, the performance of its inaugural flights for new service on B-747 aircraft between New York and Tel Aviv.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found, on a tentative basis, that Resolution JT12(Mail 777)200h, which is incorporated in Agreement CAB 22733, is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That: Action on Agreement 22733 be and hereby is deferred with a view toward eventual approval.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may, within 10 days after the date of service of this order, file such petitions in support of or in opposition to our proposed action herein.

This order will be published in FEDERAL REGISTER.

[SEAL] HARRY J. ZINK,
Secretary.
[FR Doc.71-15429 Filed 10-21-71;8:50 am]

[Docket No. 22508, etc.]

MAINLAND-PONCE SERVICE INVESTIGATION

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be held before the Board on November 17, 1971, at 10 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, DC.

Dated at Washington, D.C., October 18, 1971.

[SEAL] RALPH L. WISER,
Chief Examiner.

[FR Doc.71-15423 Filed 10-21-71;8:49 am]

[Docket No. 23919; Order 71-10-71]

SENIOR-CITIZEN FARES IN FOREIGN AIR TRANSPORTATION

Order of Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 18th day of October 1971.

By tariff filed October 8, 1971, to be effective February 1, 1972, Koninklijke Luchtvaart Maatschappij N.V. (KLM) proposes to offer reduced round-trip fares for travel by senior citizens between Amsterdam and points in the United States (New York, Chicago, Houston). These special fares will be available to persons 65 years or older and are set at a level equal to KLM's round-trip youth fares in the same markets.¹ The fares effect significant discounts from existing normal fares—e.g., the senior citizen fares between New York and Amsterdam will be \$228 and \$190 during peak and offpeak periods, respectively, and when compared with the normal economy fares of \$413 and \$353 applicable in such periods, represent discounts of 45 percent and 54 percent.

No complaints have been filed.

By Order 71-9-3, dated September 1, 1971, the Board instituted an investigation of youth and student fares now available in numerous international markets. In doing so, we stated that limitation of special fares to persons within specified age groups is an obvious discrimination against persons not meeting that test, and that the question presented is whether such discrimination is justified. We are not unmindful of the interest of senior citizens in lower-priced air transportation. However, in our opinion, the senior-citizen fares to be offered by KLM raise questions of discrimination and lawfulness which are comparable to

¹The youth fares, filed concurrently with the senior-citizen fares, constitute revisions to fares and provisions set for investigation in Order 71-9-3 and are therefore included in that investigation.

those raised by the youth fares.² While the proposal to offer senior-citizen fares in international air transportation is so far limited to one foreign country, we believe it only reasonable to anticipate competitive filings involving numerous additional markets, with the end result of relatively extensive availability of like or similar fares.

The Board therefore finds that the senior-citizen fares proposed for application in foreign air transportation, as described in the following order, may be unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated.³

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 1002(f) thereof: *It is ordered, That:*

1. An investigation is instituted to determine whether Rule 39 on Eighth Revised Page 23 and all fares in Table 163 on Original Page 180-C of Air Tariffs Corporation, Agent's CAB No. 28, including subsequent revisions and reissues thereof, and classifications, rules, regulations, and practices affecting such fares and provisions, are or will be unjustly discriminatory, unduly preferential, or unduly prejudicial, and if found to be unjustly discriminatory, unduly preferential, or unduly prejudicial, to determine how such fares and provisions and classifications, rules, regulations, and practices should be altered to correct such discrimination, preference, or prejudice, and what order should be made to the carriers to remove such discrimination, preference, or prejudice.

2. This investigation be assigned for hearing before an examiner of the Board at a time and place hereafter to be designated.

3. A copy of this order will be served upon K.L.M. Royal Dutch Airlines who is hereby made a party to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board,
[SEAL] HARRY J. ZINK,
Secretary.

[FR Doc.71-15428 Filed 10-21-71;8:50 am]

[Docket No. 23040]

TAMPA-MEXICO CITY NONSTOP SERVICE INVESTIGATION

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of

²In this connection we would note that on several occasions the Board has suspended special fares proposed for senior citizens in domestic transportation. Orders 71-5-100 dated May 21, 1971, and Order 70-12-133 dated Dec. 23, 1970.

³In the event additional carriers make individual tariff filings proposing senior-citizen fares, or the carrier members of International Air Transport Association reach an agreement on such fares, the Board intends to broaden this investigation to encompass such tariffs.

1958, as amended, that oral argument in the above-entitled matter is assigned to be held before the Board on November 16, 1971, at 10 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., October 18, 1971.

[SEAL]

RALPH L. WISER,
Chief Examiner.

[FR Doc.71-15424 Filed 10-21-71;8:49 am]

FEDERAL POWER COMMISSION

[Docket No. CP71-258]

ALABAMA-TENNESSEE NATURAL GAS CO.

Order Setting Hearing, Establishing Procedures, and Granting Intervention

OCTOBER 15, 1971.

On April 27, 1971, Alabama-Tennessee Natural Gas Co. (applicant) filed an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity seeking authorization to construct and operate pipeline and metering facilities and to revise two existing metering stations for the transportation and sale of natural gas on an interruptible basis to Tennessee Valley Authority (TVA) for use as fuel in a new powerplant. Specifically, applicant proposes to construct and operate 1.04 miles of 16-inch lateral pipeline and 0.95 mile of 10 $\frac{1}{4}$ -inch lateral pipeline, together with the necessary metering and regulating facilities, in Colbert County, Ala., for the sale and delivery of natural gas to TVA. The pipeline will extend from a point adjacent to the Delta-Portland line of Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), sole supplier of applicant, to the Colbert Steam Plant of TVA in Colbert County, Ala., where new gas turbine generating units are now under construction by TVA, for use in meeting emergencies and peaking load requirements on TVA's system. Applicant proposes further to revise the metering facilities at its Barton Gas Purchase Station and at Tennessee's Barton Sales Station, both located near the intersection of the respective pipelines of the two companies in Colbert County. The Barton Sales Station is owned and maintained by applicant and leased to and operated by Tennessee.

Applicant states that the proposed construction and operation of facilities, together with modifications of existing facilities, will permit it to sell and deliver to TVA up to 4,200 Mcf per hour and a minimum of 2,100,000 Mcf per year on an interruptible basis, pursuant to a sales agreement between the parties, dated March 24, 1971. This agreement provides, among other things, for a base price of 30.5 cents per Mcf, during the first 5 years, and 31.5 cents per Mcf during the second 5 years of the 10-year term of the agreement. This price is subject to ad-

justment to reflect any changes in the commodity rate of the supplier. Applicant states that it will provide the proposed service from its existing authorized quantity of gas purchased from Tennessee.

Under the proposal, additional quantities of natural gas will be sold annually by applicant on an interruptible basis. We believe that the propriety of that proposal should be shown on an evidentiary record in light of the crucial natural gas supply situation confronting many pipeline companies today. Accordingly, we are ordering a hearing to develop all of the facts pertaining to the public convenience and necessity issues involved in this application including, but not limited to, impact on the gas supply of Tennessee, possible volumetric as well as periodic limitations, availability of alternate fuels as well as the level of rates proposed.

On June 1, 1971, Tennessee filed a petition for leave to intervene. In its petition, Tennessee states that it is the sole supplier of natural gas to applicant and therefore has a vital economic interest which could be affected by the increased sales proposed in this proceeding. Tennessee further states that its interest is not and cannot be adequately represented by any other party.

The Commission finds:

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing concerning the application filed by applicant on April 27, 1971, and that the hearing be expedited in accordance with the procedures set forth below.

(2) The participation of Tennessee in this proceeding may be in the public interest.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Ch. I), a public hearing shall be held commencing November 16, 1971, at 10 a.m., e.s.t. in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426, concerning the propriety of issuing a certificate of public convenience and necessity to applicant for the proposed sale and the construction and operation of the facilities necessary thereto as set forth in its application filed on April 27, 1971.

(B) On or before October 29, 1971, applicant and Tennessee shall serve their testimony and exhibits on all parties to this proceeding which will comprise their case-in-chief in support of their respective positions. At the hearing on November 16, 1971, the testimony and exhibits filed shall be proffered in evidence and, if accepted, cross-examination thereof shall then commence.

(C) A Presiding Examiner to be designated by the Chief Examiner for that purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearings in this proceeding, and shall prescribe relevant procedural matters not herein provided.

(D) Tennessee is hereby permitted to intervene in this proceeding, subject to the rules of practice and procedure and the regulations of the Commission: *Provided, however*, That the participation of such intervenor shall be limited to matters affecting the rights and interests specifically set forth in its petition to intervene: *And provided, further*, That the admission of such intervenor shall not be construed as recognition that it might be aggrieved because of any order or orders issued by the Commission in this proceeding.

By the Commission.

[SEAL]

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-15406 Filed 10-21-71;8:48 am]

[Project 2317]

APPALACHIAN POWER CO.

Notice Fixing Oral Argument

OCTOBER 15, 1971.

The Commission has before it the Presiding Examiner's Supplemental Decision issued June 21, 1971, the briefs on exceptions, and briefs opposing exceptions. The State of West Virginia, the Commonwealth of Virginia, Alleghany and Ashe Counties, N.C., the Congress for Appalachian Development and the Appalachian Research and Defense Fund, and Grayson County, Va., have requested oral argument. The State of North Carolina requests that if oral argument is granted, North Carolina be allowed to participate. Appalachian Power Co. opposes oral argument.

Take notice that an oral argument is scheduled to be heard by the Commission en banc commencing at 10 a.m. (e.s.t.), on November 11, 1971, in a hearing room of the Federal Power Commission, 441 G Street NW., Washington, DC 20426.

All participants in this proceeding who desire to present oral argument shall notify the Secretary of the Commission on or before October 26, 1971, of the amount of time requested for presentation of their respective oral arguments.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-15337 Filed 10-21-71;8:46 am]

[Docket No. CP72-83]

CITIES SERVICE GAS CO.

Notice of Application

OCTOBER 15, 1971.

Take notice that on September 27, 1971, Cities Service Gas Co. (applicant), Post Office Box 25128, Oklahoma City, OK 73125, filed in Docket No. CP72-83 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the regulations under said Act, for a certificate of public convenience and necessity authorizing the

construction and installation, during the calendar year 1972, and operation of certain natural gas pipeline and field compressor facilities to enable applicant to take into its pipeline system supplies of natural gas which will be purchased from producers in the general area of said system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting supplies of natural gas to its pipeline system. The total cost of the facilities proposed herein will not exceed \$4 million, with no single project costing in excess of \$1 million. Applicant states that these costs will be financed from treasury cash.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 2, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-15412 Filed 10-21-71; 8:48 am]

[Dockets Nos. CP72-74, CP72-75]

EL PASO NATURAL GAS CO.

Notice of Applications

OCTOBER 14, 1971.

Take notice that on September 22, 1971, El Paso Natural Gas Co. (appli-

cant), Post Office Box 1492, El Paso, TX 79978, filed in Dockets Nos. CP72-74 and CP72-75 applications pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(c) of the regulations under said Act, for certificates of public convenience and necessity authorizing the construction, during the calendar year 1972, and operation of certain natural gas sales and transportation facilities in its Southern Division, Docket No. CP72-74, and in its Northwest Division, Docket No. CP72-75, to enable applicant to make sales of natural gas to existing customers and to make miscellaneous rearrangements of existing facilities, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

The purpose of the certificates requested herein is to augment applicant's ability to supply with the least possible delay, the natural gas requirements of its customers in existing market areas, and to make miscellaneous relocations and rearrangements of existing facilities. Applicant states that the proposed facilities will not be used to deliver natural gas for boiler fuel purposes.

Applicant states that the reason for the separate certificate applications herein is the pending divestiture ordered by the Supreme Court of the United States (United States v. El Paso Natural Gas Company, et al., 376 U.S. 651, 1964) of its Northwest Division System. Applicant further states that this procedure of separate applications for the Southern Division System and for the Northwest Division System will, upon divestiture of the Northwest Division system, facilitate the transfer of such additions to the party succeeding to applicant's interest in its Northwest Division System.

The total estimated costs for the maximum facilities in both of the applications aggregate \$600,000, which exceeds the limitation set forth in § 157.7(c) (3) (i) of the Commission's regulations and, therefore, applicant requests a waiver of the cost limitation of said § 157.7(c) (3) (i). Applicant also requests a waiver of the volumetric limitation imposed by § 157.7(c) (2) of the Commission's regulations to permit conversion of existing taps and reinforcement of existing laterals when sales thereby will exceed 100,000 Mcf annually.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 2, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificates are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-15407 Filed 10-21-71; 8:48 am]

[Docket No. CP72-79]

EL PASO NATURAL GAS CO.

Notice of Application

OCTOBER 14, 1971.

Take notice that on September 22, 1971, El Paso Natural Gas Co. (applicant), Post Office Box 1492, El Paso, TX 79978, filed in Docket No. CP 72-79 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the delivery of natural gas on an exchange basis either to Pacific Gas Transmission Co. (PGT) for transmission and redelivery to Pacific Gas and Electric Co. (PG&E) or directly to PG&E for the term commencing on or about May 1, 1972, and continuing through no later than September 30, 1972, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has entered into an Emergency Exchange Agreement with PG&E and PGT whereby PG&E will direct PGT to deliver to applicant at an existing point of interconnection between the facilities of applicant and PGT near Stanfield, Oreg., up to 100,000 Mcf per day of natural gas commencing upon receipt of necessary authorizations or November 1, 1971, whichever is the later, and continuing through no later than April 30, 1972. Such deliveries by PGT to applicant will be made only after applicant has scheduled full deliveries of gas available to its Northwest Division from all other sources. Applicant, commencing on or about May 1, 1972, and continuing through no later than September 30, 1972, will redeliver either to PGT at Stanfield, Oreg., for transmission and redelivery to PG&E at the California-Oregon border, or directly to PG&E at the existing point of delivery on the Arizona-California boundary near Topock, Ariz., quantities of gas at the rate of 50,-

000 Mcf per day, or such other rates as may be agreed upon from time to time, until the total quantity of gas so delivered to PGT shall equal 150 percent of the total quantity of gas delivered by PGT to applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 2, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-15408 Filed 10-21-71;8:48 am]

[Docket No. CP72-80]

FLORIDA GAS TRANSMISSION CO.
Notice of Application

OCTOBER 15, 1971.

Take notice that on September 22, 1971, Florida Gas Transmission Co. (applicant), Post Office Box 44, Winter Park, FL 32789, filed in Docket No. CP72-80 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of two 30-inch main line loops on its 24-inch main transmission pipeline in St. Helena Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, applicant proposes to construct and operate approximately 3.05

miles of 30-inch pipeline loop paralleling an equal distance of its existing 24-inch main transmission pipeline between milepost 32.24 and milepost 35.29; and approximately 0.97 mile of 30-inch pipeline loop paralleling an equal distance of its existing 24-inch main transmission pipeline between milepost 37.29 and milepost 38.26, for a total of approximately 4.02 miles of 30-inch main transmission pipeline loop facilities, all in St. Helena Parish.

Applicant states that the proposed facilities are to be installed in an unlooped section of applicant's 24-inch main transmission pipeline to enable it to retest that section of its existing main-line facilities in order to comply with safety regulations of the Department of Transportation issued pursuant to the Natural Gas Pipeline Safety Act of 1968, without interrupting service to its markets in Florida during the test period.

Applicant states that the estimated total cost of the proposed project is \$1,081,000, which cost will be paid from internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 8, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-15409 Filed 10-21-71;8:48 am]

[Docket No. CP72-87]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Application

OCTOBER 15, 1971.

Take notice that on September 28, 1971, Michigan Wisconsin Pipe Line Co. (applicant), 1 Woodward Avenue, Detroit, MI 48226, filed in Docket No. CP72-87 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities to enable applicant to connect to its pipeline system a new supply of natural gas from offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has contracted with TransOcean, a group of producers, for the purchase of 750 million Mcf of presently proven reserves in Block 296, Eugene Island Area. To connect the TransOcean reserves to its system, applicant proposes to construct a 30-inch pipeline extending approximately 34.5 miles from the Block 296-306 area to applicant's existing platform in Block 188, Eugene Island Area. Adjacent to this platform, applicant will construct a new platform on which will be installed two 13,000-horsepower compressor units, together with related facilities. Applicant also proposes to construct approximately 0.2 mile of 20-inch line connecting the new 30-inch line with TransOcean's platform in Block 296 and various measuring facilities.

Applicant states that its existing pipeline, extending from Block 108, South Marsh Island Area to Block 188, Eugene Island Area is fully loaded; and, therefore, the proposed new pipeline from the Block 296-306 area to Block 188 provides the most economical means of connecting TransOcean's existing reserves and those anticipated to become available to applicant as new reserves are discovered and developed in the vicinity of the line. Compression at Block 188 is required to transport the increased volumes to shore.

The estimated cost of the facilities proposed herein is \$26,471,000 which cost applicant states will be financed with borrowings from banks under lines of credit, together with retained earnings and other funds generated internally.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 8, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the

protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-15410 Filed 10-21-71;8:48 am]

[Docket No. RP71-112]

MICHIGAN WISCONSIN PIPE LINE CO.

Notice of Filing of Stipulation and Agreement

OCTOBER 19, 1971.

Take notice that on October 13, 1971, Michigan Wisconsin Pipe Line Co. filed in Docket No. RP71-112 a proposed Stipulation and Agreement together with related revised tariff sheets. The stipulation and agreement resulted from discussions among Michigan Wisconsin, the Commission's staff, and interested parties. The proposed stipulation and agreement would resolve all issues in Docket No. RP71-112, and would result in a general reduction in the rates sought by Michigan Wisconsin in its initial rate increase filing in this docket.

The stipulation and agreement would provide a new section 15 to the general terms and conditions of Michigan Wisconsin's FPC Gas Tariff, Second Revised Volume No. 1, which constitutes a purchased gas adjustment provision. The stipulation and agreement also provides for revised rates based on net changes in Michigan Wisconsin's advance payments for gas, and safety program expenditures required as a result of regulations issued pursuant to the Natural Gas Pipeline Safety Act of 1968, subject to refund of amounts found by the Commission after hearing to be not justified, together with interest at 7 percent compounded annually on the refundable amount.

Michigan Wisconsin requests that the Commission by order accept and approve the stipulation and agreement and concurrently accept the revised tariff sheets to be effective as of November 1, 1971,

subject to the President's economic stabilization program and Commission orders relating thereto.

Comments or objections relating to the proposed stipulation and agreement may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before October 29, 1971.

Any order issued in this proceeding will be subject to the Commission's statement of policy implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 97-15, 85 Stat. 38), and Executive Order No. 11615 including such amendments as the Commission may require.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-15461 Filed 10-21-71;8:51 am]

[Docket No. CI72-218]

SUN OIL CO. ET AL.

Notice of Application

OCTOBER 20, 1971.

Take notice that on October 18, 1971, Sun Oil Co. (Operator) et al., Post Office Box 2880, Dallas, TX 75221, filed in Docket No. CI72-218 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Co. (United) from the East Dykesville Field, Claiborne Parish, La., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas to United within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) on August 27, 1971, and that it proposes to continue said sale for 1 year after the termination of the emergency 60-day period or from the date of Commission authorization, at the rate of 35 cents per Mcf at 15.025 p.s.i.a. within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). The estimated monthly sales volume is 90,000 Mcf of gas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 1, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must

file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-15462 Filed 10-21-71;8:51 am]

[Docket No. OP72-93]

TEXAS EASTERN TRANSMISSION CORP.

Notice of Application

OCTOBER 15, 1971.

Take notice that on October 4, 1971, Texas Eastern Transmission Corp. (applicant), Post Office Box 2521, Houston, TX 77001, filed in Docket No. CP72-93, an application pursuant to section 3 of the Natural Gas Act for authorization to import approximately 12 trillion British thermal units (B.t.u.) of liquefied natural gas (LNG) from Libya to be transported to applicant's LNG storage facilities on Staten Island, N.Y., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it will import the LNG in full cargo lots of approximately 1 trillion B.t.u.'s (about 250,000 barrels) at intervals of approximately 30 days, commencing approximately 27 days after appropriate governmental approval is obtained and continuing through September 1972. Applicant will purchase the LNG from Esso International Inc., or an affiliate thereof, at a price of 75 cents per million B.t.u.'s calculated on quantities loaded at Marsa el Brega, Libya, or approximately 81 cents per million B.t.u.'s transported and delivered by seller to applicant's certificated facilities on Staten Island. By means of such facilities, and certain auxiliary installations, applicant will store and gasify the LNG and make it part of its gas supply system.

Applicant states that the proposed importation and purchase of LNG is necessary to meet its commitments to existing customers during the coming heating season and thereafter. The proposal will result in an increase of 0.84 cent per Mcf

in applicant's gas purchase costs. Applicant proposes to track such increase under the stipulation and agreement approved by Commission order issued March 24, 1971, in Docket No. RP70-29, et al.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 8, 1971, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-15411 Filed 10-21-71;8:48 am]

[Docket No. RP72-48]

LAWRENCEBURG GAS TRANSMISSION CORP.

Notice of Proposed Changes in Rates and Charges

OCTOBER 20, 1971.

Take notice that Lawrenceburg Gas Transmission Corp. (Lawrenceburg), on October 7, 1971, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1, to become effective on November 1, 1971. The proposed rate changes would increase charges for jurisdictional sales by approximately \$208,986 annually, based on volumes for the 12-month period ended June 30, 1969. The proposed increase would be applicable to Lawrenceburg's two jurisdictional rate schedules, CDS-1 and EX-1.

Lawrenceburg states that the reason for the proposed increase is occasioned solely by, and will compensate Lawrenceburg only for, an increase in its cost of purchased gas resulting from the filing of proposed increased rates by its sole supplier, Texas Gas Transmission Corp. on October 1, 1971, in Docket No. RP72-45. In case of suspension of the proposed rate increases, Lawrenceburg requests that the increased rates be suspended to no later than the date on which Texas Gas' proposed increased rates become effective.

Lawrenceburg requests waiver of the notice requirements of Section 154.51 of the Commission's regulations to permit the proposed increased rates to become effective on November 1, 1971, for the reason that it received the Texas Gas rate filing in Docket No. RP72-45 on October 4, 1971, less than 30 days prior to Lawrenceburg's requested effective date.

Copies of the filing were served on

Lawrenceburg's customers and interested state commissions.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 27, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Any order issued in this proceeding will be subject to the Commission's Statement of Policy Implementing the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799, as amended by Public Law 97-15, 85 Stat. 38), and Executive Order No. 11615, including such amendments as the Commission may require.

KENNETH F. PLUMB,
Secretary.

[FR Doc.71-15517 Filed 10-21-71;10:05 am]

[Docket No. CS72-270, etc.]

WALTER PENDLETON, JR., ET AL.

Notice of Applications for "Small Producer" Certificates¹

OCTOBER 13, 1971.

Take notice that each of the applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 5, 1971, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

¹This notice does not provide for consolidation for hearing of the several matters covered herein.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Name of applicant
CS72-270...	9-24-71	Walter Pendleton, Jr. (Operator) et al., Box 250, Shamrock, TX 76789.
CS72-271...	9-24-71	Mary Nona Pendleton et al., Box 250, Shamrock, TX 76789.
CS72-272...	9-27-71	W. H. Bird, 1816 First National Bldg., Tulsa, Okla. 74103.
CS72-273...	9-27-71	Good's, Bertman & Co., Inc., 1219 Bank of the Southwest Bldg., Houston, Tex. 77002.
CS72-274...	9-27-71	H & M Oil Co., 812 Continental Life Bldg., Fort Worth, Tex. 76102.
CS72-275...	9-27-71	Albert M. Stall, 2830 International Trade Mart Bldg., 2 Canal St., New Orleans, LA 70130.
CS72-276...	9-27-71	Margaret Johnson McCurdy, d.b.a. McCurdy Oil Co., 6100 Camp Bowie Blvd., Fort Worth, TX 76115.
CS72-277...	9-27-71	S. Lee Ware, Jr., 602 Beck Bldg., Shreveport, La. 71101.
CS72-278...	9-27-71	Dudley R. Metz, Post Office Box 2777, Southfield Station, Shreveport, LA 71165.
CS72-279...	9-23-71	Howard Draw and Weldon Littel, Drawer O, Eikhart, KS 67530.
CS72-281...	9-24-71	Edgar W. White, Drawer O, Eikhart, KS 67530.
CS72-282...	9-29-71	Beard Oil Co., 2300 Chascon Center, Suite 200-S, Oklahoma City, OK 73105.
CS72-283...	9-29-71	C. C. Freeman Estate, Post Office Box 918, Canadian, TX 75014.
CS72-284...	9-29-71	J. C. Templeton, 313 Hightower Bldg., Oklahoma City, Okla. 73102.
CS72-285...	9-29-71	U-Ancher Minerals, Inc., 3619 South Washington, Amarillo, TX 79100.
CS72-286...	9-27-71	McCurtick, Gouger & Mitchell et al., D-219 Petroleum Center, San Antonio, Tex. 78209.
CS72-287...	9-30-71	J. M. Tindall, Twitty, Tex. 75790.
CS72-288...	9-24-71	D. J. (Dennis) Gohlke, 1912 The 600 Bldg., Corpus Christi, Tex. 78401.
CS72-289...	9-24-71	L. R. Gohlke, 1912 The 600 Bldg., Corpus Christi, Tex. 78401.
CS72-300...	9-24-71	W. L. Gohlke, 1912 The 600 Bldg., Corpus Christi, Tex. 78401.
CS72-301...	9-30-71	O'Brien Drilling Co. et al., Post Office Box 5152, Shreveport, LA 71165.

[FR Doc.71-15361 Filed 10-21-71;8:45 am]

GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regulations
Temporary Reg. A-8]

GOVERNMENT EMPLOYEES

Travel and Transportation and Allowances for Relocation

1. *Purpose.* This regulation implements paragraphs (1) through (13) and (19) of section 1 of Executive Order No. 11609 of July 22, 1971 (36 F.R. 13747), and provides for adoption by the General Services Administration (GSA) of Office of Management and Budget (OMB) regulations governing (1) travel and transportation of Government employees, (2) allowances incident to the relocation of Government employees, (3) payment of expenses when a Government employee dies while away from home on official business, and (4) reductions in allowances when contributions, awards, or payments are made to employees incident to training or attendance at meetings.

2. *Effective date.* This regulation is effective October 21, 1971.

3. *Expiration date.* This regulation expires April 30, 1972. Prior to expiration, the provisions of this regulation will be incorporated in FPMR 101-6.

4. *Background.* a. Executive Order No. 8557 of September 30, 1940, as amended by Executive Order No. 10209 of February 1, 1951, and modified by OMB Circular No. A-92, dated February 13, 1969, subject: Modification of the limitation on the amount allowed for the cost of preparing remains of employees who die while in travel status, promulgates regulations that apply to the remains, families, and effects of deceased civilian officers and employees of the United States where expenses are authorized under 5 U.S.C. 5741-5742.

b. OMB Circular No. A-7 Revised, dated August 17, 1971, and Transmittal Memorandum No. 1, dated October 6, 1971, subject: Standardized Government Travel Regulations, promulgate regulations that apply to civilian officers and employees of the United States and other persons whose travel expenses are authorized under 5 U.S.C. 5701-5709.

c. OMB Circular No. A-56 Revised, dated August 17, 1971, subject: Employee Relocation Allowance Regulations, promulgates regulations that apply to civilian officers and employees of the United States and other persons whose travel and transportation expenses and other allowances are authorized under 5 U.S.C. 5721-5733 and 20 U.S.C. 905.

d. OMB Circular No. A-48 (paragraph 3), dated September 23, 1971, subject: Responsibilities for planning training investments and regulations governing reductions in payments to employees, promulgates regulations that apply to reductions in Government payments for travel and subsistence when employees

receive contributions, awards, or payments, as authorized under 5 U.S.C. 4111(b).

5. *GSA assumption of responsibility.* a. In accordance with paragraphs (1) through (13) and (19) of section 1 and section 12 of Executive Order No. 11609, the Administrator of General Services will assume responsibility for prescribing and promulgating regulations under the statutory authorities cited in paragraph 4, above, effective October 21, 1971.

b. The regulations contained in Executive Order No. 8557 as amended, and in OMB Circulars Nos. A-7 (and Transmittal Memorandum No. 1 thereto), A-48 (paragraph 3), A-56, and A-92 are hereby adopted and prescribed effective on and after October 21, 1971, until such time as appropriate regulations are incorporated in FPMR 101-6. The cited regulations will be considered a part of this temporary regulation and will be in force until specifically superseded.

6. *Technical assistance.* Agencies requiring technical assistance on any of the subjects covered in the OMB circulars cited in paragraph 4, above, may obtain assistance from:

General Services Administration, Transportation and Communications Service (TT), Washington, DC 20405, Telephone: IDS 193-45223/45345, FTS 202-25-45223/45345.

Dated: October 20, 1971.

ROBERT L. KUNZIG,
Administrator of General Services.

[FR Doc.71-15492 Filed 10-20-71;2:50 pm]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3421]

CONTINENTAL VENDING MACHINE CORP.

Order Suspending Trading

OCTOBER 15, 1970.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10 cents par value of Continental Vending Machine Corp., and the 6-percent convertible subordinated debentures due September 1, 1976, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, Pursuant to section 15(c) (5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period October 18, 1971, through October 27, 1971.

By the Commission.

[SEAL]

RONALD F. HUNT,
Secretary.

[FR Doc.71-15386 Filed 10-21-71;8:46 am]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 861;
Class B]

NORTH CAROLINA

Declaration of Disaster Loan Area

Whereas, it has been reported that during the months of September and October 1971, because of the effects of certain disasters damage resulted to residences and business property located in the State of North Carolina;

Whereas, the Small Business Administration has investigated and has received other reports of investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended.

Now, therefore, as Associate Administrator for Operations and Investment of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b) (1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Carteret, Craven, Beaufort, Pamlico and Hyde Counties, N.C., suffered damage or destruction resulting from floods, heavy rains and winds in Hurricane Ginger occurring on September 30 and October 1, 1971.

Office: Small Business Administration District Office, 222 South Church Street, Charlotte, NC 28202.

2. Temporary offices will be established at such areas as are necessary, addresses to be announced locally.

3. Applications for disaster loans under the authority of this Declaration will not be accepted subsequent to April 30, 1972.

Dated: October 12, 1971.

A. H. SINGER,
Associate Administrator for Operations and Investment.

[FR Doc.71-15383 Filed 10-21-71;8:46 am]

DEPARTMENT OF LABOR

Employment Standards Administration

EXTENSION OF EXPIRATION DATES OF DAVIS-BACON AREA WAGE DETERMINATIONS

Notice of Variation From Certain Labor Standards

Whereas all general or area wage determinations of the Secretary of Labor

issued under the Davis-Bacon Act and the provisions of other Federal statutes containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act will soon expire; and whereas the republication of these determinations would not be in the public interest because of the lack of significant changes in recent weeks resulting from the implementation of Executive Order 11615, dated August 15, 1971, providing for stabilization of prices, rents, wages, and salaries, I find that the variation from the provisions of 29 CFR 5.4 set forth below is necessary in order to avoid serious impairment in the conduct of Government business. I also find that notice, public procedure, and delay in the effective date of this document extending the life of wage determinations would be contrary to the public interest within the meaning of 5 U.S.C. 553.

Accordingly, notice is hereby given that pursuant to the provisions of 29 CFR 5.13 the expiration date of each outstanding general or area wage determination of the Secretary of Labor issued under the Davis-Bacon Act and the related statutes, as modified, is extended for a period of 120 days from the date on which it would have expired: *Provided, however*, That during this period of extension such area wage determinations will continue to be modified as appropriate.

Signed at Washington, D.C., this 15th day of October, 1971.

HORACE E. MENASCO,
Administrator of
Employment Standards.

[FR Doc.71-15339 Filed 10-21-71;8:45 am]

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Modification to Area Wage Determination Decisions for Specified Localities in Certain States

Modification to area wage determination decisions for specified localities in Florida, Indiana, Illinois, Mississippi, New Jersey, New York, Pennsylvania, and Tennessee.

Area wage determination decisions published in the FEDERAL REGISTER on the following dates:

Decision No.	Date
AM-1707, AM-1713, AM-1715, AM-1717, AM-1725, AM-1729, AM-1731, AM-1736	Aug. 11, 1971
AM-342, AM-351, AM-358, AM-362, AM-363, AM-366	Aug. 13, 1971
AM-454, AM-489, AM-500, AM-1849, AM-1865	Aug. 20, 1971

are hereby modified as set forth below.

These modifications are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since these determinations were issued.

The determinations of prevailing rates and fringe benefits made in these modifications have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 F.R. 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to

the provisions of Part 1 of Subtitle A of Title 29 of the Code of Federal Regulations, "Procedure for Predetermination of Wage Rates," and of Secretary of Labor's Orders 13-71 and 15-71 (36 F.R. 8755, 8756). The prevailing rates and fringe benefits determined in the foregoing area wage determination decisions, as hereby modified, shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

The modifications are effective from their date of publication in the FEDERAL REGISTER until the end of the 120-day period for which the determinations being modified were issued and are to be used in accordance with the provisions of 29 CFR Part 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 is set forth in the document being modified.

The modifications to the area wage determination decisions listed above are set forth below.

Signed at Washington, D.C., this 15th day of October 1971.

HORACE E. MENASCO,
Administrator, Employment
Standards Administration.

MODIFICATIONS

Classification	Basis hourly rates	Fringe benefits payments			
		H & W	Pensions	Vacation	App. Tr. Other
<i>WD No. AM-454-56 F.R. 16377, Duval County, Fla. Modification No. 1</i>					
CHANGE:					
Laborers:					
Laborers.....	\$3.34				
Mechanical tool, power buggy, pipers, and gunnite workers.....	3.54				
Mason tenders, mortar mixers, and grouters.....	3.64				
Gunnite nozzlemen.....	3.79				
Highway formsetters.....	3.94				
<i>WD No. AM-351-56 F.R. 15277, Allen County, Ind. Modification No. 3</i>					
CHANGE:					
Building construction:					
Carpenters.....	6.85	a			\$0.04
Millwrights.....	7.20	a			.04
Piledrivermen.....	7.20	a			.04
Soft floor layers.....	6.85	a			.04
Footnotes:					
a. 4 percent for health and welfare includes pension:					
<i>WD No. AM-358-56 F.R. 15319, La Porte County, Ind. Modification No. 3</i>					
CHANGE:					
La Porte County, excluding Michigan City:					
Building construction:					
Roofers:					
Composition, damp and waterproofing.....	7.15		\$0.30		.03
Slate, tile, asbestos.....	7.30		.30		.03
Helpers.....	4.50		.30		.03
Michigan City, La Porte County:					
Building construction:					
Roofers:					
Composition, damp and waterproofing.....	7.15		.30		.03
Slate, tile, asbestos.....	7.30		.30		.03
Helpers.....	4.50		.30		.03

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
<i>WD No. AM-562-80 F.R. 16348, St. Joseph County, Ind. Modification No. 2</i>						
CHANGE:						
Building construction:						
Roofers:						
Composition, damp and waterproofing.....	\$7.15		\$0.30		\$0.63	
Slate, tile, asbestos.....	7.30		.30		.63	
Helpers.....	4.60		.30		.63	
<i>WD No. AM-563-80 F.R. 16353, Vanderburgh County, Ind. Modification No. 2</i>						
CHANGE:						
Building construction:						
Carpenters and soft floor layers.....						
Millwrights.....	6.40	\$0.30	.25		.63	
Piledrivermen.....	6.65	.30	.25		.63	
	6.65	.30	.25		.63	
<i>WD No. AM-566-80 F.R. 16370, Benton, Carroll, Cass, Clinton, Fulton, Howard, Jasper, Miami, Newton, Pulaski, Tippecanoe, Tipton, Wabash, and White Counties, Ind. Modification No. 1</i>						
CHANGE:						
Carpenters:						
Jasper and Newton Counties.....	7.76	.40	.40		.02	
Remainder of counties.....	6.38	.20	.20		.02	
Cementmasons:						
Cass, Fulton, Miami, and Southeastern one-sixth of Pulaski County.....	5.95	.15			.01	
Northeastern portion of Jasper County, west to but not including Wheatfield, and northern one-half of Pulaski County to and including Winamac.....	6.95	.25	.60		.02	
<i>WD No. AM-542-80 F.R. 16218, Winnebago County, Ill. Modification No. 1</i>						
CHANGE:						
Carpenters:						
Building.....	6.95	.20	.10		.02	
Piledrivermen.....	6.95	.20	.10		.02	
Soft floor layers.....	6.95	.20	.10		.02	
<i>WD No. AM-489-80 F.R. 16401, Harrison and Pearl River Counties, Miss. Modification No. 1</i>						
CHANGE:						
Carpenters.....						
Millwrights.....	5.55					
Piledrivermen.....	5.87					
Soft floor layers.....	7.02	.25	.25			
	5.55					
<i>WD No. AM-1,707-80 F.R. 14805, Bergen County, N.J. Modification No. 2</i>						
CHANGE:						
Building construction:						
Laborers, building:						
Remainder of county:						
Laborers.....	5.95	.60	.60			
Air tool operator (jackhammer, vibrator).....	5.95	.60	.60			
Mason tenders.....	5.95	.60	.60			
Mortar mixers.....	5.95	.60	.60			
Pipelayers (concrete and clay).....	5.95	.60	.60			
Plasterers' tenders.....	5.95	.60	.60			
Wrecking and excavation.....	5.95	.60	.60			
<i>WD No. AM-1,713-80 F.R. 14848, Mercer County, N.J. Modification No. 2</i>						
CHANGE:						
Building construction:						
Laborers, building:						
Townships of Washington, Highstown, and East Windsor:						
Laborers.....	6.35	.35	.45			
Jackhammermen.....	6.60	.35	.45			
<i>WD No. AM-1,715-80 F.R. 14863, Monmouth County, N.J. Modification No. 3</i>						
CHANGE:						
Building construction:						
Laborers, building:						
Remainder of county:						
Laborers.....	6.35	.35	.45			
Jackhammermen.....	6.60	.35	.45			
<i>WD No. AM-1,717-80 F.R. 14878, Ocean County, N.J. Modification No. 3</i>						
CHANGE:						
Building construction:						
Laborers, building:						
Remainder of county:						
Laborers.....	6.35	.35	.45			
Jackhammermen.....	6.60	.35	.45			
<i>WD No. AM-1,725-80 F.R. 14928, Erie County, N.Y. Modification No. 2</i>						
CHANGE:						
Building, heavy, and highway construction:						
Painters:						
Grand Island north of White Haven Road:						
Painters, brush.....	6.385	.425+.45	.30		.01	
Spray, steel, steeplejacks, swing scaffold.....	6.783	.425+.45	.30		.01	
Bridges crossing the Niagara River.....	9.30	.425+.45	.30		.01	
Sandblasting and waterblasting.....	6.855	.425+.45	.30		.01	
Remainder of county:						
Painters, brush.....	6.275	.425+.45	.30		.10	
Steel tanks, towers, stacks, flagpoles, radio-TV towers.....	6.775	.425+.45	.30		.10	
Sandblasting, swing stage, spray, bosun chair.....	6.625	.425+.45	.30		.10	
Bridges 35 ft. high or in depth of 35 ft. from road level.....	7.70	.425+.45	.30		.10	
<i>WD No. AM-1,729-80 F.R. 14950, Niagara County, N.Y. Modification No. 3</i>						
CHANGE:						
Building, heavy, and highway construction:						
Painters:						
Townships of Somerset, Hartland, Royalton, Newfane, Lockport, Pendleton, and the eastern half of Cambria and Wilson:						
Brush.....	6.275	.425+.45	.30		.10	
Steel tanks, towers, stacks, flagpoles, radio-TV towers.....	6.775	.425+.45	.30		.10	
Sandblasting, swing stage, spray, bosun chair.....	6.625	.425+.45	.30		.10	
Bridges 35 ft. high or in depth of 35 ft. from road level.....	7.70	.425+.45	.30		.10	

Classification	Basic hourly rates	Fringe benefits payments				
		H & W	Pensions	Vacation	App. Tr.	Other
<i>WD No. AM-1,751-56 F.R. 14960, Onondaga County, N.Y. Modification No. 2</i>						
CHANGE:						
Building construction:						
Laborers:						
Laborers	\$0.70	\$0.60	\$9.20			
Air tool operator (jackhammermen, vibrator), plasterers' helper, gas buggies, mortar mixers (hand and machine), chipping hammer, automatic tampers	6.89	.20	.20			
<i>WD No. AM-1,759-56 F.R. 14985, Westchester County, N.Y. Modification No. 2</i>						
CHANGE:						
Building, heavy, and highway construction:						
Bricklayers	7.15	.20	.49+.60	.30+f		
Cement masons	7.15	.20	.49+.60	.30+f		
Plasterers	7.15	.20	.49+.60	.30+f		
Stonemasons	7.15	.20	.49+.60	.30+f		
<i>WD No. AM-1,849-56 F.R. 16257, Berks County, Pa. Modification No. 1</i>						
CHANGE:						
Building construction:						
Elevator constructors	8.02	.105	.20	1 1/2%+b+c	.065	
Elevator constructors' helpers	5.61	.105	.20	1 1/2%+b+c	.065	
Elevator constructors' helpers (prob.)	4.61					
Painters:						
Brush	6.20	.25	.20			
Highway bridges	7.25	.25	.20			
Spray and steel	7.25	.25	.20			
<i>WD No. AM-1,865-56 F.R. 16333, Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa. Modification No. 1.</i>						
CHANGE:						
Highway construction:						
Carpenters						
Carpenters	8.10	.92	.25	d	.07	
Laborers:						
Powdermen, multiple wagon drill operator	8.55	.15	.10			
Finished surface asphalt rakers, jackhammer operators, paving breaker operators, pipe-layers, caulkers, conduct and duct layers	8.55	.15	.10			
Other pneumatic tool operators, laborers stripping concrete forms, carrying or handling lumber, steel, steel mesh, and other concrete materials, form pinners, toolroom men, mortar mixers, concrete pitmen and spaders, grademen, asphalt shovelers, men working in sheeting, men working in shoring, men working in lagging, laborers assisting in the setting of cut stone, granite, or artificial stone, hod carriers, scaffold builders	8.55	.15	.10			
Wagon drill operators	8.70	.15	.10			
Yard workers:						
Laborers, scale mixermen, burnermen, dustmen, feeders	8.45	.15	.10			
Free air tunnels:						
Miners, miners bore driver, blasters, drillers, pneumatic shield operators, welders, and burners	8.075	.15	.10			
Miners' helpers, form setters	8.825	.15	.10			
Trackmen, brakemen, groutmen, bottom shaft men, all others in free air tunnels	8.675	.15	.10			
Circular caisson excavation bottommen	8.65	.15	.10			
Underpinning excavation bottommen	8.85	.15	.10			
All other laborers on construction work, with the exception of workers in compressed air	8.55	.15	.10			
Truck drivers:						
Class I:						
Helper, stake-body truck (single axle), dumpster	4.62	.3175	.20	b+c		
Class II:						
Dump trucks, tandem and batch trucks, semitrailers, agitator mixer trucks, and dump-concrete-type vehicles, asphalt distributors, farm tractor when used for transportation, stake-body truck (tandem)	8.02	.3175	.30	b+c		
Class III:						
Euclid type, off-highway equipment—back or belly dump trucks and double-hitched equipment, straddle (Ross) carrier, low-bed trailers	8.22	.3175	.30	b+c		
Footnote: d. Paid holiday: Labor Day.						
<i>WD No. AM-500-59 F.R. 16478, Davidson County, Tenn. Modification No. 2</i>						
CHANGE:						
Building construction:						
Laborers:						
Mortar mixers	3.80	.10	.10			
Mason tenders and plasterers' tenders	3.80	.10	.10			
Ironworkers:						
Structural, ornamental, and reinforcing	6.20	.30	.10		.04	

[FR Doc.71-15260 Filed 10-21-71;8:45 am]

Office of the Secretary
LIBBEY-OWENS-FORD CO.

Notice of Certification of Eligibility of
Workers To Apply for Adjustment
Assistance

On September 8, 1971, a petition requesting certification of eligibility to apply for adjustment assistance was filed with the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs by the United Glass and Ceramic Workers, AFL-CIO, and the Window Glass Cutters League of America, AFL-CIO, on behalf of the workers of the sheet glass plant of Libbey-Owens-Ford Co., located at Shreveport, La. The request for certification was made under Presidential Proclamation 3967 ("Adjustment of Duties on Certain Sheet Glass") of February 27, 1970 (35 F.R.

3975). In that Proclamation, the President, among other things, acted to provide under section 302(a) (3) with respect to the sheet glass industry that its workers may request the Secretary of Labor for certifications of eligibility to apply for adjustment assistance under chapter 3, title III of the Trade Expansion Act of 1962.

The Trade Expansion Act, section 302 (b) (2) provides that the Secretary of Labor shall certify as eligible to apply for adjustment assistance under chapter 3 any group of workers in an industry with respect to which the President has acted under section 302(a) (3), upon a showing by such group of workers to the satisfaction of the Secretary of Labor that the increased imports (which the Tariff Commission has determined to result from concessions granted under trade agreements) have caused or threatened to

cause unemployment or underemployment of a significant number or proportion of workers of such workers' firm or subdivision thereof. The same degree of casual connection is applicable here as under the tariff adjustment and other adjustment assistance provisions; that is, the increased imports have been the major factor.

The Director, Office of Foreign Economic Policy, upon receipt of the petition, instituted an investigation following which he made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation 34 F.R. 18342 and 36 F.R. 18541; 29 CFR Part 90). In that recommendation it was reported that increased imports of sheet glass of the types covered by Presidential Proclamation 3967 have been the major factor in causing the unemployment or

underemployment of a significant number or proportion of workers from the Libbey-Owens-Ford Co. sheet glass plant in Shreveport, La. He further reported that unemployment or underemployment began April 22, 1971. He also noted all hourly workers and salaried workers were laid off by September 26, 1971, except for several salaried workers carrying on administrative and clerical tasks related to the shutdown of the plant.

After due consideration, I make the following certification:

All hourly employees of the sheet glass plant of Libbey-Owens-Ford Co., Shreveport, La., who became unemployed or underemployed after April 22, 1971 and before September 27, 1971, and salaried employees who became or will become unemployed or underemployed after April 22, 1971, are eligible to apply for adjustment assistance under chapter 3, title III, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 15th day of October 1971.

DONALD M. IRWIN,
Deputy Under Secretary,
International Affairs.

[FR Doc.71-15388 Filed 10-21-71;8:46 am]

PPG INDUSTRIES

Notice of Revised Certification of Eligibility of Workers To Apply for Adjustment Assistance

Pursuant to the provisions of section 302 of the Trade Expansion Act of 1962, the President's Proclamation 3967 of February 27, 1970 (35 F.R. 3975), and a petition filed and investigation conducted pursuant to the provisions of such section as authorized under 29 CFR Part 90 and notices in 34 F.R. 18342 and 36 F.R. 11007, a certification under section 302 (b) (2) of such Act was made on May 25, 1970, certifying that certain workers, described in the notice of certification (36 F.R. 15692), are eligible to apply for adjustment assistance under chapter 3, title III, of such Act. On the basis of a further showing pursuant to section 302 (b) (2) of such Act and further investigation by the Director of the Office of Foreign Economic Policy, and pursuant to the provisions of section 302(d) of such Act, the certification set forth in the notice of certification published at 36 F.R. 15692 is hereby revised to include additional workers, significant in number or proportion, for whom the increased imports which the Tariff Commission has determined to result from concessions granted under trade agreements are hereby determined to have caused or threatened to cause their unemployment or underemployment.

Such revised certification is hereby made as follows:

All hourly workers of PPG Industries, Works No. 12, Clarksburg, W. Va., who became unemployed or underemployed after December 25, 1969, and before May 11, 1970, are eligible to apply for adjustment assistance under chapter 3, title III, of the Trade Expansion Act of 1962.

Signed at Washington, D.C., this 14th day of October 1971.

DONALD M. IRWIN,
Deputy Under Secretary,
International Affairs.

[FR Doc.71-15389 Filed 10-21-71;8:46 am]

INTERSTATE COMMERCE COMMISSION

ASSIGNMENT OF HEARINGS

OCTOBER 19, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 119619 Sub 44, Distributors Service Co., assigned November 29, 1971, at 1 p.m., in Court Room No. 2, Room 461, U.S. Customs Court, 26 Federal Plaza, New York, N.Y.
MC 119789 Sub 58, Caravan Refrigerated Cargo, Inc., heard October 4, 1971, and continued to November 2, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 2900 Sub 177, Ryder Truck Lines, Inc., continued to December 7, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 19227 Sub 150, Leonard Bros. Trucking Co., now assigned October 28, 1971, at Dallas, Tex., canceled and application dismissed.

MC 116763 Sub 188, Carl Subler Trucking, Inc., now assigned continued hearing on November 8, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

I & S M-25018, Foodstuffs, Florida points to Chicago, Ill., now assigned November 16, 1971, at Washington, D.C., canceled. The rates are being canceled.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-15432 Filed 10-21-71;8:50 am]

ASSIGNMENT OF HEARINGS

OCTOBER 18, 1971.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

FD 26659, and its related Subs, 1, 2, 3, 5, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 21, 23, 26, 27, and 28, R. D. Timpany, Trustee of the Property of the Central Railroad Company of New Jersey, abandonments, assigned November 3, 1971, at Newark, N.J., in the Crystal Room, Robert Treat Hotel, Park Place. Also FD 26773 and FD 26781.

MC 135110, Wood's Trucking Co., Ltd., assigned November 15, 1971, at Buffalo, N.Y., is postponed indefinitely.

MC 135419, Container Carrier Corp., now assigned November 8, 1971, in the Roosevelt Hotel, 123 Baronne, New Orleans, LA.

FD 26424, Atchison, Topeka & Santa Fe Railway Co., abandonment between Socorro and Magdalena, N. Mex., now assigned October 21, 1971, at Santa Fe, N. Mex., canceled and reassigned to October 21, 1971, at the Socorro County Courthouse, 200 Hurch Avenue SW., Socorro, NM, at 1 p.m.

MC 120646 Sub 4, Duncan Motor Lines, assigned October 28, 1971, at Raleigh, N.C., canceled and reassigned for hearing on October 28, 1971, in the Downtowner Motor Inn, 300 North Main Street, Greenville, SC.

MC 3-844 Sub 355, Kroblin Refrigerated Xpress, Inc., assigned October 18, 1971, Columbus, Ohio, canceled and dismissed.

MC 119441 (Sub-No. 25), Baker Hi-Way Express, Inc., now assigned November 8, 1971, at Columbus, Ohio, in Room 107 State Office Building, 65 South Front Street, transferred to Room 107, Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, OH.

MC 107993 (Sub-No. 20), J. J. Willis Trucking Co., assigned December 6, 1971, at Room 1010 Federal Building, 230 North First Avenue, Phoenix, AZ.

MC 103721 Sub 19, Raymond Long, Inc., heard October 7, 1971, and continued to November 15, 1971, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-15433 Filed 10-21-71;8:50 am]

[Notice 382]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 18, 1971.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in

field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 9269 (Sub-No. 14 TA) (Amendment), filed September 15, 1971, published FEDERAL REGISTER October 1, 1971, amended and republished as amended this issue. Applicant: BEST WAY MOTOR FREIGHT, INC., 1765 Sixth Avenue South, Seattle, WA 98134. Applicant's representative: Ben Brown (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except household goods as defined by the Commission, classes A and B explosives, those of unusual value, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from the commercial zone of Tacoma, Wash., to the commercial zone of Spokane, Wash., and return as follows: From Tacoma, Wash., over Interstate Highway 5 to Seattle, Wash., and thence over Interstate Highway 90 to Spokane and return over the same route, serving the intermediate portion of Seattle (and its commercial zone), Moses Lake, Wash., restricted to traffic moving to, from, or through Spokane or Moses Lake, for 180 days. NOTE: Applicant states it will interline at Tacoma, Seattle, and Spokane, Wash. Supported by: This application is supported by more than 25 supporting shippers. The letters may be inspected at the Interstate Commerce Commission Office in Washington, D.C. 20423, or the Seattle office. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101. NOTE: The purpose of this republication is to show the complete highway description.

No. MC 35835 (Sub-No. 27 TA) (Correction), filed September 16, 1971, published FEDERAL REGISTER October 1, 1971, corrected and republished as corrected this issue. Applicant: JENSEN TRANSPORT, INC., 300 Ninth Avenue, Southeast, Independence, IA 50644. Applicant's representative: Kenneth F. Dudley, Post Office Box 279, Ottumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn starch, in bulk*, from Cedar Rapids, Iowa, to points in Illinois, and Minnesota, for 180 days. Supporting shipper: Penick & Ford, Ltd., 10th Avenue and First Street, Southwest Cedar Rapids, IA 52406. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309. NOTE: The purpose of this republication is to add the restriction in bulk, which was inadvertently omitted in previous publication.

No. MC 106398 (Sub-No. 559 TA), filed September 9, 1971. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Box 51096, Dawson Station, Tulsa, OK 74151. Authority sought to operate as a *common carrier*, by

motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from the plantsite of Wheeler Homes, Inc., Savannah, Tenn., to points in Louisiana, Mississippi, Alabama, Tennessee, Kentucky, West Virginia, Virginia, Illinois, Missouri, and Arkansas, for 180 days. Supporting shipper: Wheeler Homes, Inc., Woody Lacy, 517 West First Street, Sheffield, AL 35660. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Building, 215 Northwest Third, Oklahoma City, OK 73102.

No. MC 113678 (Sub-No. 437 TA), filed October 7, 1971. Applicant: CURTIS, INC., Post Office Box 16004, Stockyard Station, Denver, CO 80216, Office: 4810 Pontiac St. (Commerce City), CO 80022. Applicant's representative: David L. Metzler (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Kalona, Iowa, to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Chef Quick Co., 7033 East 49th Avenue, Denver, CO 80022. Send protests to: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 114211 (Sub-No. 161 TA), filed October 7, 1971. Applicant: WARREN TRANSPORT, INC., 324 Manhard Street, 50701, Post Office Box 240, Waterloo, IA 50704. Applicant's representative: Charles W. Singer, Suite 1625, 33 North Dearborn, Chicago, IL 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural machinery and implements*, (2) *tractors*, (3) *industrial, construction, excavating, and material handling equipment*, (4) *trailers designed for the transportation of the above commodities*, (5) *cabs for (1), (2), and (3) above*, (6) *internal combustion engines*, (7) *attachments for (1), (2), and (3) above*, and (8) *parts for (1) and (7) above*, from the plant and warehouse facilities of J. I. Case Co. at Bettendorf, Iowa, to points in Minnesota, Iowa, Missouri, Arkansas, Louisiana, Texas, Oklahoma, Kansas, Nebraska, South Dakota, Montana, Wyoming, Colorado, New Mexico, and North Dakota, for 180 days. Supporting shipper: J. I. Case Co., 700 State Street, Racine, WI 53404. Send protests to: Ellis L. Annett, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 677 Federal Building, Des Moines, Iowa 50309.

No. MC 114265 (Sub-No. 12 TA), filed October 7, 1971. Applicant: RALPH SHOEMAKER, doing business as SHOEMAKER TRUCKING CO., 8624 Franklin Road, Boise, ID 83705. Applicant's representative: Raymond D. Givens, Post Office Box 964, Boise, ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood and steel trusses and*

component parts, from points in Ada County, Idaho to North Platte, Nebr., and Hays, Kans., for 180 days. NOTE: Applicant does not intend to tack or interline authority herein sought. Supporting shipper: Trus-Joint Corp., 9777 W. Chinden Blvd., Boise, ID 83704. Send protests to: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 455 Federal Building and U.S. Courthouse, 550 West Fort Street, Boise, ID 83702.

No. MC 116879 (Sub-No. 5 TA), filed October 6, 1971. Applicant: RICHARD T. BESTWICK, 213 South 13th Street, Sabetha, KS 66534. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Butter*, from Chillicothe, Mo., to Sabetha, Kans., for 180 days. NOTE: Applicant does not intend to tack the authority here applied for to other authority held by it, or to interline with other carriers. Supporting shipper: M. O. Hedeman, Manager Manufacturing Operations, Kansas City Division, Mid-America Dairymen, Inc., Post Office Box 684, Chillicothe, MO 64601. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 234 Federal Building, Topeka, Kans. 66603.

No. MC 115841 (Sub-No. 417 TA), filed October 6, 1971. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 Bankhead Highway West, 35204, Post Office Box 10327, Birmingham, AL-35202. Applicant's representative: Roger M. Shaner, Post Office Box 168, Concord, TN 37720. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, from Omaha, Nebr., to Bristol, Tenn., for 180 days. NOTE: Applicant intends to tack the authority here applied for at Bristol and Chattanooga, Tenn., with its MC 115841 (Sub-Nos. 77 and 146). Supporting shipper: Armour and Co., Fresh Meats Division, Post Office Box 9222, Chicago, IL 60690. Attention: V. P. Adrian, supervisor of transportation. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 120800 (Sub-No. 44 TA), filed October 12, 1971. Applicant: CAPITOL TRUCK LINE, INC., 2500 North Alameda Street, Compton, CA 90222. Applicant's representative: A. O'Malley (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbon monoxide*, in specially designed vacuum jacketed trailers, from APCI Plantsite, La Porte, Tex., to Albuquerque, N. Mex., for 180 days. Supporting shipper: Air Products and Chemicals Inc., Industrial Gas Division, Post Office Box 538, Allentown, PA 18105. Send protests to: Walter W. Strakosch,

District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 127049 (Sub-No. 11 TA), filed October 8, 1971. Applicant: CEDARBURG CONTAINER CARRIERS CORPORATION, 1616 Second Avenue, Grafton, WI 53024. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Molded paper containers*, from Shamokin, Pa., to points in Ohio, Kentucky, Tennessee, Georgia, Florida, South Carolina, North Carolina, Virginia, West Virginia, Maryland, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, and Cedarburg, Wis.; and (2) *scrap paper and materials and supplies* used in the manufacture of molded paper containers (except commodities in bulk) from points named in (1) above, to Shamokin, Pa., for the account of Formart Container, Inc., of Cedarburg, Wis., for 150 days. Supporting shipper: Formart Containers, Inc., Pioneer Road, Post Office Box 46, Cedarburg, WI 53012 (William G. Conlin, president). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, WI 53203.

No. MC 127777 (Sub-No. 15 TA), filed October 8, 1971. Applicant: MOBILE HOME EXPRESS, INC., Post Office Box 547, Wausau, WI 54401. Applicant's representative: Theodore Polydoroff, 1140 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Kitchen display trailers*, equipped with hitchball connector and designed to be drawn by passenger automobiles, in initial movements, for display or exhibition purposes only, beginning and ending at Laona, Wis., and extending to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: Connor Forest Industries, 131 Thomas Street, Wausau, WI 54401. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 West Wilson Street, Room 206, Madison, WI 53703.

No. MC 135155 (Sub-No. 1 TA), filed October 12, 1971. Applicant: G. P. SULLIVAN CO., 2000 South Western Avenue, Chicago, IL 60608. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, Mich. 48933. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise* of J. C. Penney Co., Inc., sold at retail, from their stores and warehouses in Chicago and its commercial zone, Elk Grove Village and Waukegan, Ill., to the residences and places of business of retail customers in Kenosha, Walworth and Racine Counties, Wis., with return of *rejected, repossessed, damaged, ex-*

changed, or trade-in merchandise, restricted to service to be performed under continuing contract with J. C. Penney Co., Inc., for 180 days. Supporting shipper: E. F. Stadelman, General Traffic Manager, J. C. Penney Co., Inc., 1301 Avenue of the Americas, New York, NY 10019. Send protests to: Raymond E. Mauk, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, IL 60604.

No. MC 135877 (Sub-No. 1 TA), filed October 12, 1971. Applicant: RONALD R. BRADER, doing business as SPECIALIZED TRUCKING SERVICE, 1508 South Fourth Avenue, Yakima, WA 98902. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass bottles and jars, covers, stoppers and tops; and fiberboard boxes, KD flat or folded flat*, when in mixed shipments with the above commodities, from Portland, Ore., to points in the counties of San Francisco, Alameda, Contra Costa, San Mateo, Santa Clara, Stanislaus, Merced, Los Angeles, Orange, and San Bernardino, Calif., and from Oakland, Tracy, and Los Angeles, Calif., to points west of the Cascade Crest in Oregon, and Clark, Lewis, Pierce, King, Snohomish, Whatcom, Yakima, Chelan, Spokane, Walla Walla, Benton, Grays Harbor, and Thurston Counties, Wash., for 180 days. Supporting shipper: Owens-Illinois, Glass Container Division, 1700 South El Camino Real, San Mateo, CA 94402. Send protests to: District Supervisor, W. J. Huettig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 Southwest Pine Street, Portland, OR 97204.

No. MC 136070 TA, filed October 12, 1971. Applicant: JOHN F. SCHROEDER, INC., 6409 North 46th Street, Tacoma, WA 98407. Applicant's representative: Vincent L. Gadbow, 1205 Rust Building, Tacoma, Wash. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used and new cars*, from Tacoma, Wash., to points in Washington, Oregon, California, and Phoenix, Ariz., and Salt Lake City, Utah, for 180 days. Supporting shippers: Century Motors, Inc., 6202 South Tacoma Way, Tacoma, WA 98408; Dunn's Used Cars, 5001 South Tacoma Way, Tacoma, WA 98409; Liberto's Puget Sound Auto Sales, 8021 South Tacoma Way, Tacoma, WA 98409; Puyallup Chrysler-Plymouth, Inc., 401 River Road, Post Office Box 9, Puyallup, WA 98371; Rainier Auto Sales, 7201 South Tacoma Way, Tacoma, WA 98409; South Side Motors, 7702 South Tacoma Way, Tacoma, WA 98408; Vista Auto Sales, 11102 Pacific Highway South, Tacoma, WA, and there are 110 petition signed by Pierce County, Washington dealers. Send protests to: E. J. Casey, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 6130 Arcade Building, Seattle, Wash. 98101.

No. MC 136071 TA, filed October 8,

1971. Applicant: KISSNER TRANSPORT, LTD., 525 12th Avenue East, Post Office Box 305, Regina, SK, Canada. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul, MN 55114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt* (sodium chloride) *and salt products*, from Williston, N. Dak., to ports of entry on the United States-Canada international boundary line in Montana and North Dakota, on traffic destined to the Provinces of Alberta, Manitoba, and Saskatchewan, for 180 days. Supporting shipper: Dakota Salt & Chemical Co., Post Office Box 7063, St. Louis, MO 63177. Send protests to: J. H. Amb, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Post Office Box 2340, Fargo, ND 58102.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-15430 Filed 10-21-71;8:50 am]

[Notice 769]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 10, 1971.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-72867. By order of October 15, 1971, the Motor Carrier Board approved the transfer to Peter L. Lesolme, doing business as Pocono Transfer, Henryville, Pa., that portion of Certificate No. MC-95329 (Sub-No. 6), issued February 28, 1962, to Comonaldo Cicerone, doing business as John Cicerone and Son, Milford, Pa., authorizing the transportation of: Household goods, between Stroudsburg, Pa., and points in Pennsylvania within 10 miles thereof, on the one hand, and, on the other, points in New York, New Jersey, Maryland, and the District of Columbia. James K. Peck, Jr., 912 Northeastern National Bank Building, Scranton, Pa. 18503, attorney for applicants.

No. MC-FC-73201. By order of October 15, 1971, the Motor Carrier Board approved the transfer to Bruner Transfer, Inc., Beloit, Wis., of Certificate No. MC-4575, issued March 3, 1971, and Permit No. MC-133444, issued March 3, 1971, to John E. Bruner and John P. Bruner,

a partnership, doing business as Bruner Transfer, Beloit, Wis., authorizing the transportation of, as to the certificate: General commodities, with the usual exceptions, from Beloit, Wis., to points in Illinois within 25 miles of Beloit, and from Freeport, Rockford, and South Beloit, Ill., to Beloit, Wis., and household goods between Beloit, Wis., on the one hand, and, on the other, points in Illinois within 25 miles of Beloit; and as to the permit: Engine parts and accessories, motors, and compressors, between the plantsite of Fairbanks Morse, Inc., at or near Beloit, Wis., on the one hand, and, on the other, points in 18 specified States. Dual operations authorized. John L. Bruemmer, 121 West Doty Street, Madison, WI 53511, attorney for applicants.

No. MC-FC-73207. By order of October 15, 1971, the Motor Carrier Board approved the transfer to Reber Corp., Norristown, Pa., of Certificates Nos. MC-123383 (Sub-No. 2), MC-123383 (Sub-No. 3), MC-123383 (Sub-No. 5), MC-123383 (Sub-No. 16), and MC-123383 (Sub-No. 20), issued February 15, 1962, September 1, 1961, May 17, 1962, May 17, 1966, and January 4, 1968, to Boyle Brothers, Inc., Camden, N.J., authorizing the transportation of: Pulverized coal, lime, limestone, and products thereof, cement, and fly ash (the above-named commodities move, in bulk, in tank vehicles, in hopper type vehicles, and unrestricted), between specified points in New York, Pennsylvania, Connecticut, New Jersey, Delaware, Maryland, Virginia, Massachusetts, Rhode Island, West Virginia, and the District of Columbia. Morton E. Kiel, attorney, 140 Cedar St., New York, NY 10006. Ronald M. Agulnick, attorney, 15 South Church, West Chester, PA 19380.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-15431 Filed 10-21-71; 8:50 am]

[No. 35475]

U.S. NORTH ATLANTIC PORTS AND CENTRAL TERRITORY

Petition for Investigation of Railroad Freight Rate Structure

OCTOBER 4, 1971.

Notice is hereby given that on September 2, 1971, the Virginia Port Authority filed a petition with the Interstate Commerce Commission requesting the Commission, on its own motion, as authorized in section 13(2) of the Interstate Commerce Act, to institute an investigation of the railroad freight rate structure for trailer-on-flatcar (TOFC) and container on flatcar (COFC) movements (particularly in ramp-to-ramp service) between North Atlantic ports (Maine to Virginia, inclusive) and points in central territory, on traffic having a prior or subsequent movement by water. A letter dated September 8, 1971, in support of the petition for an investigation, was received from the Massachusetts Port Authority.

In support of the request, the petitioner avers that the railroads are apply-

ing their domestic TOFC or COFC rates on containerized import and export shipments; that these rates are generally motor-compelled and are based on a distance formula; and that use of these rates has created a railroad rate advantage for the port nearest to the inland origin or destination point. Petitioner claims that traditionally the railroads in official territory have maintained exclusive export-import rates on conventional rail traffic, and that the present rate structure provides for port equalization. Petitioner urges that on import-export containerized shipments the application of the present distance-oriented domestic TOFC and COFC rates may be unjust and unreasonable, and unduly prejudicial as between the North Atlantic ports on traffic to and from points in central territory, in violation of specified provisions of the act.

Petitioner prays that the Commission "upon completion of the investigation, find the present domestic rate structure inadequate and harmful to the commerce of most North Atlantic ports in violation of section 1(4) of the Interstate Commerce Act and order the railroads to establish exclusive export-import port-related rates, or prescribe such a basis, on the traffic above described."

General public notification of the filing of the petition and of the letter in support will be given by publication of this notice in the FEDERAL REGISTER.

Any persons interested in the matters involved may, on or before 30 days from the publication of this notice in the FEDERAL REGISTER, file replies to the petition supporting or opposing the determination sought. An original and 15 copies of such replies must be filed with the Commission and must show service of two copies thereof upon petitioner's representatives, Arthur W. Jacocks and J. Robert Bray, Virginia Port Authority, 1600 Maritime Tower, Norfolk, Va. 23510. Thereafter, a determination will be made whether to institute an investigation, and if so, the nature of further proceedings will be fixed.

Copies of this notice are being sent to the petitioner, and the Massachusetts Port Authority. Copies of all future releases herein will be served only on the petitioner and intervenor and those responding to this notice.

Written material or suggestions submitted will be available for public inspection at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, DC, during regular business hours.

ROBERT L. OSWALD,
Secretary.

[FR Doc.71-15437 Filed 10-21-71; 8:50 am]

[No. 35288]

KANSAS CITY SOUTHERN RAILROAD CO. AND LOUISIANA AND ARKANSAS RAILROAD CO.

Investigation Into Management, Business Interrelationships and Transactions

At a general session of the Interstate Commerce Commission, held at its office

in Washington, D.C., on the 15th day of October 1971.

Investigation into the management, business interrelationships and transactions of the Kansas City Southern Railway Co. and the Louisiana and Arkansas Railway Co. in relation to their controlling holding company, Kansas City Southern Industries, Inc., and persons under a common control with the carriers.

Upon consideration of the order of the Commission, dated June 26, 1970, instituting this proceeding and directing the Bureau of Enforcement to participate as a party therein, and good cause appearing therefor:

It is ordered, That the Bureau of Enforcement shall file with the Secretary of the Commission at its office in Washington, D.C., not later than October 26, 1971, an original and four copies of the prepared direct evidence of its staff witnesses and shall at the same time serve 10 copies thereof on Henry C. Darmstadter, Esquire, Sullivan & Worcester, 1025 Connecticut Avenue NW., Washington, DC, which shall constitute service upon all the respondents herein, and shall upon proper request therefor provide copies of said prepared direct evidence to any intervenor in this proceeding.

It is further ordered, That a hearing will be held before a hearing examiner, commencing on December 6, 1971, at 9:30 a.m., e.s.t., at the offices of the Interstate Commerce Commission, Washington, D.C., for the purpose of presenting the direct testimony of such additional witnesses as the Bureau shall offer and of any witnesses for intervenors, and for cross-examination of staff witnesses whose direct evidence was served as provided above, and for such further proceedings including cross-examination of additional witnesses and presentation of rebuttal testimony as may be directed by the presiding hearing examiner.

It is further ordered, That any party desiring to actively participate as an intervenor in this proceeding shall notify the Commission of such intent, in writing, on or before November 15, 1971, and shall also so notify the Bureau of Enforcement and respondents.

And it is further ordered, That a copy of this order be served on all parties to this proceeding and that further notice of this proceeding be given to the public by depositing a copy of this order in the Office of the Secretary of this Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, Washington, D.C., for publication in the FEDERAL REGISTER.

By the Commission.

[SEAL] ROBERT L. OSWALD,
Secretary.

[FR Doc.71-15436 Filed 10-21-71; 8:50 am]

[Service Order 1080]

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PART II

DEPARTMENT OF AGRICULTURE

Agricultural Research Service



Laboratory Animal Welfare

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

19 CFR Parts 1, 2, 31

LABORATORY ANIMAL WELFARE

Notice of Proposed Rule Making

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that pursuant to the provisions of the Act of August 24, 1966 (Public Law 89-544), as amended by the Animal Welfare Act of 1970 (Public Law 91-579), (7 U.S.C. 2131 et seq.) the Agricultural Research Service is considering revising Parts 1 and 2; amending §§ 3.10, 3.34, 3.59, and 3.84 of Part 3; and adding a new Subpart E to Part 3 of Subchapter A, Chapter I, Title 9, Code of Federal Regulations.

Statement of considerations. The Act of August 24, 1966 (Public Law 89-544), was amended by the Animal Welfare Act of 1970 (Public Law 91-579). Such revision of the previous legislation necessitates or makes appropriate certain adjustments in, and additions to, the regulations and standards governing the humane care and handling of certain animals. This proposed revision of the regulations and standards also reflects certain other changes which are proposed to update, clarify, or editorially correct present wording in the interest or normal progress.

The specific amendments would be as follows:

1. Parts 1 and 2 would be amended to read as follows:

PART 1—DEFINITION OF TERMS

§ 1.1 Definitions.

For the purposes of this subchapter, the following terms shall be construed, respectively, to mean:

(a) "Act" means the Act of August 24, 1966 (Public Law 89-544), commonly known as the Laboratory Animal Welfare Act, as amended by the Act of December 24, 1970 (Public Law 91-579), the Animal Welfare Act of 1970.

(b) "Department" means the U.S. Department of Agriculture.

(c) "Secretary" means the Secretary of Agriculture of the United States or his representative who shall be an employee of the U.S. Department of Agriculture.

(d) "Division" means the Animal Health Division, Agricultural Research Service, of the Department.

(e) "Director" means the Director of the Division or any other official of the Division to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in his stead.

(f) "Veterinarian In Charge" means a veterinarian of the Division who is assigned by the Director to supervise and perform the official work of the Division in a given State and who reports directly to the Director. As used in Part 2 of this subchapter, the Veterinarian In Charge shall be deemed to be the one in charge of the official work of the Division in the

State in which the dealer, exhibitor, research facility, or operator of an auction sale has his principal place of business.¹

(g) "Division representative" means any Inspector or other person employed full time by the Division who is responsible for the performance of the function involved.

(h) "State" means a State, the District of Columbia, Commonwealth of Puerto Rico, or a territory or possession of the United States.

(i) "Person" means any individual partnership, firm, joint stock company, corporation, association, trust, estate, or other legal entity.

(j) "Dog" means any live or dead dog (*Canis familiaris*).

(k) "Cat" means any live or dead cat (*Felis catus*).

(l) "Animal" means any live or dead dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, rabbit, or any warmblooded animal, domesticated or raised in captivity and which normally can be found in the wild state, and is being used, or is intended for use, for research, testing, experimentation, or exhibition purposes or as a pet. Such term excludes birds, aquatic animals, rats and mice, and horses and other farm animals, such as, but not limited to livestock or poultry, used or intended for use as food or fiber, or livestock or poultry, used or intended use for improving animal nutrition, breeding, management or production efficiency, or for improving the quality of food or fiber.

(m) "Farm animal" means any warm-blooded animal (other than dog, cat, monkey (nonhuman primate mammal), guinea pig, hamster, or rabbit), normally raised on farms in the United States and used or intended for use as food or fiber.

(n) "Wild state" means living in its original, natural condition; not domesticated.

(o) "Nonhuman primate" means any nonhuman member of the highest order of mammals including prosimians, monkeys, and apes.

(p) "Commerce" means trade, traffic, commerce, transportation among the several States, or between any State, territory, possession, or the District of Columbia, or the Commonwealth of Puerto Rico, and any place outside thereof; or between points within the same State, territory, or possession, or the District of Columbia, or the Commonwealth of Puerto Rico, but through any place outside thereof; or within any territory, possession, or the District of Columbia.

(q) "Affecting commerce" means in commerce, or burdening or obstructing or substantially affecting commerce or the free flow of commerce, or having led or tending to lead to the inhumane care of animals used or intended for use for purposes of research, experimentation, exhibition, or held for sale as pets, by

burdening or obstructing or substantially affecting commerce or the free flow of commerce.

(r) "Research facility" means any school (except an elementary or secondary school), institution, organization, or person that uses or intends to use live animals in research, tests, or experiments, and that (1) purchases or transports live animals affecting commerce, or (2) receives funds under a grant, award, loan, or contract from a department, agency, or instrumentality of the United States for the purpose of carrying out research, tests, or experiments: *Provided, however,* That a "research facility" shall not include any such school, institution, organization, or person that does not use or intend to use live dogs or cats and which is exempted by the Administrator, upon application to him in specific cases and upon his determination that such exemption does not vitiate the purpose of the Act, except that the Administrator will not exempt any school, institution, organization, or person that uses substantial numbers of live animals—the principal function of which school, institution, organization, or person is biomedical research or testing.²

(s) "Dealer" means any person who for compensation or profit delivers for transportation, or transports, except as a common carrier, buys or sells any animals whether alive or dead, affecting commerce, for research or teaching purposes, or for exhibition purposes, or for use as pets, but such term excludes any retail pet store except such store which sells any animals to a research facility, an exhibitor, or a dealer.

(t) "Retail pet store" means any retail outlet where animals are sold only as pets at retail. Those species from the wild state (e.g. lions, tigers, and ocelots) and which as adults in captivity require special conditions to provide safety in handling to either humans or the subject animals, shall not be considered as pet animals.

(u) "Operator of an auction sale" means any person who is engaged in operating an auction at which animals are purchased or sold, affecting commerce.

(v) "Exhibitor" means any person (public or private) exhibiting any animals, which were purchased in commerce or the intended distribution of which affects commerce, or will affect commerce, to the public for compensation, as determined by the Secretary in specific instances, and such term includes carnivals, circuses, animal acts, and zoos exhibiting such animals whether operated for profit or not; but such term excludes retail pet stores, organizations sponsoring and all persons participating in State and county fairs, livestock shows, rodeos, purebred dog and cat

¹ The name and address of the Veterinarian In Charge in the State concerned can be obtained by writing to the Director, Animal Health Division, Agricultural Research Service, U.S. Department of Agriculture, Hyattsville, Md. 20782.

² A list of such exempted schools, institutions, organizations, or persons shall be published periodically by the Division in the FEDERAL REGISTER. Such lists may also be obtained upon request from the Veterinarian In Charge.

shows, and any other fairs or exhibitions intended to advance agricultural arts and sciences, as may be determined by the Secretary in specific instances.

(w) "Licensee" means any person licensed pursuant to the provisions of the Act and the regulations in Part 2 of this subchapter.

(x) "Class 'A' dealer" means a dealer whose business involving animals includes only those animals that he breeds and raises as a closed or stable colony and those animals that he acquires for the sole purpose of maintaining or enhancing his breeding colony.

(y) "Class 'B' dealer" means any dealer who does not meet the definition of a Class "A" dealer.

(z) "Class 'C' licensee" means any exhibitor subject to the licensing requirements.

(aa) "Registrant" means any research facility or exhibitor registered pursuant to the provisions of the Act and the regulations in Part 2 of this subchapter.

(bb) "Standards" means the requirements with respect to the humane handling, care, treatment, and transportation of animals by dealers, exhibitors, research facilities, and operators of auction sales as set forth in Part 3 of this subchapter.

(cc) "Primary enclosure" means any structure used to immediately restrict an animal or animals to a limited amount of space, such as a room, pen, run, cage, compartment, or hutch.

(dd) "Housing facility" means any room, building, or area used to contain a primary enclosure or enclosures.

(ee) "Sanitize" means to make physically clean and to remove and destroy to a practical minimum, agents injurious to health.

(ff) "Ambient temperature" means the temperature surrounding the animal.

(gg) "Euthanasia" means the humane destruction of an animal accomplished by a method which quickly produces a state of unconsciousness followed by death without visible evidence of pain or anxiety.

(hh) "Nonconditioned animals" means animals which have not been subjected to special care and treatment for sufficient time to stabilize and, where necessary, to improve their health to make them suitable for research purposes.

(ii) "Dwarf hamster" means any species of hamster, such as the Chinese and Armenian species, whose adult body size is substantially less than that attained by the Syrian or Golden species of hamsters.

(jj) "Handling" means animal contact by a person or persons in the form of petting, feeding, manipulation, crating, transfer, immobilizing, restraining, treating, working, or performing any other activity, as appropriate, with respect to the species involved so as to minimize the injury and anxiety to the animal and associated personnel.

(kk) "Business year" means a 12-month period during which business is conducted, either on a calendar or fiscal year basis.

(ll) "Administrator" means Administrator of the Agricultural Research Service, U.S. Department of Agriculture.

PART 2—REGULATIONS

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LICENSING

§ 2.1 Application.

(a) Any person operating or desiring to operate as a dealer, exhibitor, or operator of an auction sale, where any dogs or cats are sold affecting commerce, except persons who are exempted from the licensing requirements under section 3 of the Act, shall apply for a license on a form which will be furnished, upon request, by the Veterinarian in Charge in the State in which such person operates or intends to operate. If such person operates in more than one State, he shall apply in the State in which he has his principal place of business. The com-

pleted application form shall be filed with such Veterinarian in Charge.

(b) (1) Any person who is not a dealer or exhibitor, but who desires to obtain a license, shall follow the requirements for dealers and exhibitors set forth in paragraph (a) of this section and in §§ 2.2 and 2.3, and shall agree in writing, on a form furnished by the Division, to comply with all the requirements of the Act and the provisions of this subchapter.

(2) A license will be issued to any such applicant when the requirements of §§ 2.2 and 2.3 have been met, and when the applicant has submitted to the Veterinarian in Charge a fee in the amount of \$15, by certified check, cashier's check, or money order. In addition to the fee required to be paid upon application for a license, such licensee shall submit to the Veterinarian in Charge a fee in the amount of \$15, by certified check, cashier's check, or money order, on or before each anniversary date of his license.

(3) The failure of any such person to comply with any provision of the Act, or any of the provisions of the regulations or standards in this subchapter, shall constitute grounds for the suspension or revocation of such license by the Secretary.

§ 2.2 Acknowledgment of standards.

A copy of the applicable standards will be supplied to the applicant with each request for an application for a license, and the applicant shall acknowledge receipt of such standards and agree to comply with them by signing the application form provided for such purpose by the Division.

§ 2.3 Demonstration of compliance with standards.

Each applicant must demonstrate that his promises and any facilities or equipment used in his business comply with the standards set forth in Part 3 of this subchapter. This may be done in any manner which the Director deems adequate to effectuate the purposes of the Act, such as the examination of the applicant's premises, facilities, and equipment by a Division representative or the submission of an affidavit by the applicant to the effect that his premises, facilities, and equipment comply with such standards. Any such affidavit shall be subject to such verification as the Director shall prescribe. Upon request by the Veterinarian in Charge, the applicant must make his premises, facilities, and equipment available at a time or times mutually agreeable to said applicant and the Division for inspection by a Division representative for the purpose of ascertaining compliance with said standards. If the applicant's premises, facilities, or equipment do not meet the requirements of the standards, the applicant will be advised of existing deficiencies and the corrective measures that must be taken and completed before such premises, facilities, and equipment will be in compliance with the standards.

PROPOSED RULE MAKING

§ 2.4 Issuance of licenses.

Except as otherwise provided in §§ 2.1(b) and 2.10, a license will be issued to any applicant when the requirements of §§ 2.1, 2.2, and 2.3 have been met, when the Secretary has determined that the applicant's premises, facilities, and equipment comply with the standards and when the applicant has submitted to the Veterinarian in Charge the annual fee prescribed in § 2.6 by certified check, cashier's check, or money order.

§ 2.5 Duration of license.

(a) A license issued under this part shall be valid and effective unless:

(1) Said license has been revoked or is suspended pursuant to section 19 of the Act.

(2) Said license is voluntarily terminated upon the request of the licensee in writing to the Veterinarian in Charge.

(b) A license which is invalid under paragraph (a) of this section shall be surrendered to the Veterinarian in Charge in the State where the license was issued.

§ 2.6 Annual fees and termination.

(a) In addition to the fee required to be paid upon application for a license under § 2.4, each licensee shall submit to the Veterinarian in Charge the annual fee prescribed in this section, by certified check, cashier's check, or money order, on or before each anniversary date of his license.

(b) (1) The amount of the annual license fee for a dealer shall be based on the total gross amount, expressed in dollars, derived from the sale of animals to research facilities, dealers, or exhibitors, or through an auction sale, by the dealer or applicant during his preceding business year (calendar or fiscal) in the case of a person who operated during such year.

(2) The amount of the annual license fee for an operator of an auction sale shall be that of a Class "B" dealer and shall be based on the total gross amount, expressed in dollars, derived in commissions or fees charged to the public for the sale of animals to research facilities, dealers or exhibitors at the auction sale during the preceding business year.

(3) In the case of an applicant for a license as a dealer or operator of an auction sale who operated at least 6 months of his preceding business year but not the entire year, the annual license fee shall be computed by estimating the yearly volume of business on the basis of the business done during the period of operation.

(4) In the case of an applicant for a license as a dealer or operator of an auction sale who did not operate for at least 6 months during his preceding business year, the annual license fee will be based on the anticipated yearly volume of business to be derived from the sale of animals to research facilities, dealers, exhibitors or through an auction sale.

(5) The amount of the annual fee required to be paid upon application for a license as an exhibitor under § 2.4, shall be based on the number of animals which are held by the applicant for purposes of

exhibition at the time the application is signed and dated. The amount of the annual license fee for an exhibitor to be paid on or before each anniversary date of his license, shall be based on the number of animals which the exhibitor is holding for purposes of exhibition at the time he signs and dates the annual report as required in § 2.7: *Provided, however,* That such report is not signed and dated more than 30 days prior to the anniversary date of the license.

(c) The license fee shall be computed in accordance with the following tables:

TABLE 1. DEALERS AND OPERATORS OF AN AUCTION SALE

Total gross dollar amount		Fee	
Over	But not over	Class A dealer	Class B dealer
\$0-----	\$2,000	\$15	\$15
2,000-----	10,000	25	50
10,000-----	25,000	100	200
25,000-----	50,000	150	300
50,000-----	100,000	200	500
100,000-----		250	700

TABLE 2—EXHIBITORS—CLASS "C" LICENSEE

Number of animals:	Fee
1-10 -----	\$10
11-50 -----	25
51-500 -----	50
501 and up-----	100

(d) If a person meets the licensing requirements for more than one class of license, he shall be required to pay the higher of the fees applicable, but not the sum of such fees, in order to be licensed for multiple types of operations covered by this subchapter.

(e) In any situation in which a licensed dealer or operator of an auction sale shall have demonstrated in writing to the satisfaction of the Secretary that he has good reason to believe that his total gross dollar amount of business for the forthcoming business year will be less than the previous business year, then his estimated gross dollar amount of business shall be used for computing the license fee for the forthcoming business year: *Provided, however,* That if such gross dollar amount for that year does in fact exceed the amount estimated, the difference in amount of the fee paid and that which was due based upon such actual gross dollar amount of business, shall be payable, in addition to the required annual fee for the next subsequent year, on the anniversary date of his license as prescribed in this section.

(f) The failure of any licensee to pay the annual fee prescribed by this section on or before each anniversary date of his license or to file the report provided for in § 2.7 shall constitute grounds for the suspension of such license until the prescribed fee is paid or report is filed pursuant to the regulations in this subchapter.

§ 2.7 Annual report by licensees.

(a) Each year within 30 days prior to the anniversary date of his license, a licensee shall file with the Veterinarian in Charge a report, upon a form which will be furnished to him, upon request, by the Veterinarian in Charge.

(b) A person licensed as a dealer shall set forth in his annual report the gross dollar amount derived from the sale of animals by the licensee to research facilities, dealers, exhibitors, and through an auction sale during the preceding business year, and such other information as may be requested thereon.

(c) A person licensed as an operator of an auction sale shall set forth in his annual report the gross dollar amount derived from commissions or fees charged to the public for the sale of animals to research facilities, dealers, or exhibitors at the auction sale during the preceding business year, and such other information as may be required thereon.

(d) A person licensed as an exhibitor shall set forth in his annual report the number of animals which are held by him for purposes of exhibition at the time he signs and dates the report: *Provided, however,* That such report is not signed and dated more than 30 days prior to the anniversary date of his license.

§ 2.8 Notification of change of name, address, control or ownership of business.

A licensee shall promptly notify the Veterinarian in Charge of any change in the name, address, management or substantial control or ownership of his business or operation within 10 days after making such change.

§ 2.9 Officers, agents, and employees of licensees whose licenses have been suspended or revoked.

Any person who has been or is an officer, agent, or employee of a licensee whose license has been suspended or revoked and who was responsible for or participated in the violation upon which the order of suspension or revocation was based will not be licensed within the period during which the order of suspension or revocation is in effect.

§ 2.10 Licensees whose licenses have been suspended or revoked.

Any person whose license has been suspended for any reason will not again be licensed in his own name or in any other manner within the period during which the order of suspension is in effect, and any person whose license has been revoked shall not be eligible to apply for a new license in his own name or in any other manner for a period of 1 year from the effective date of such revocation. No partnership, firm, corporation or other legal entity in which any such person has a substantial financial interest, will be licensed during such period. After revocation, the revoked license shall be surrendered by the holder of the license upon the request of the Secretary.

REGISTRATION

§ 2.25 Requirements and procedures.

Each research facility and each exhibitor not required to be licensed under section 3 of the Act and the regulations of this subchapter shall register with the Secretary by completing and filing a

properly executed form which will be furnished, upon request, by the Veterinarian in Charge. Such registration form shall be filed with such Veterinarian in Charge. Where a school or department of a university or college uses or intends to use animals for research, tests, or experiments, the university or college rather than the school or department will generally be considered the research facility and be required to register with the Secretary. In any situation in which a school or department of a university or college is a separate legal entity and its operations and administration are independent of those of the university or college, upon a proper showing thereof to the Secretary, the school or department will be registered rather than the university or college. A subsidiary of a business corporation, rather than a parent corporation, will be registered as a research facility or exhibitor unless the subsidiary is under such direct control of the parent corporation that to effectuate the purposes of the Act the Secretary determines that it is necessary that the parent corporation be registered.

§ 2.26 Acknowledgment of standards.

A copy of the applicable standards will be supplied with each registration form, and the registrant shall acknowledge receipt of such standards and agree to comply with them by signing a form provided for such purpose by the Division. Such form shall be filed with the Veterinarian in Charge.

§ 2.27 Notification of change of operation.

A registrant shall promptly notify the Veterinarian in Charge of any change in his name or address or any change in his operations which would affect his status as a research facility or exhibitor within ten days after making such change.

§ 2.28 Annual report of research facilities.

Each research facility shall submit on or before February 1 of each calendar year to the Veterinarian in Charge in the State where registered an annual report signed by a legally responsible official covering the previous calendar year and showing that professionally acceptable standards governing the care, treatment, and use of animals, including appropriate use of anesthetic, analgesic, and tranquilizing drugs, during experimentation are being followed by the research facility during actual research or experimentation. Such report shall include:

- (a) The location of the facility or facilities where animals were used in actual research or experimentation;
- (b) The common names and approximate numbers of animals used;
- (c) The number of experiments conducted involving necessary pain or anxiety to the animals without the use of an appropriate anesthetic, analgesic or tranquilizing drug and a brief statement explaining the reasons for the same; and
- (d) Certification by the attending veterinarian of the research facility or by an institutional committee of at least three members, one of whom is a Doctor

of Veterinary Medicine, established for the purpose of evaluating the care, treatment and use of all warmblooded animals held or used for research or experimentation, that the type and amount of anesthetic, analgesic, and tranquilizing drugs used on animals during actual research or experimentation was appropriate to relieve all unnecessary pain and anxiety for the subject animals.

IDENTIFICATION OF ANIMALS

§ 2.50 Time and method of identification.

(a) Except as otherwise provided in this section, when a Class "A" dealer sells or otherwise removes dogs or cats from his premises for delivery, affecting commerce, to a research facility or exhibitor or to another dealer, or for sale, affecting commerce, through an auction sale, each such dog or cat shall be identified by an official tag of the type described in § 2.51 affixed to the animal's neck by means of a collar made of material generally considered acceptable to pet owners as a means of identifying their pet dogs or cats: ¹ *Provided, however,* That no official tag need be affixed to any such dog that has been identified by means of a distinctive and legible tattoo marking acceptable to the Director.

(b) Except as otherwise provided in this section, when a Class "B" dealer or exhibitor purchases or otherwise acquires a dog or cat, affecting commerce, he shall immediately affix to such animal's neck an official tag of the type described in § 2.51 by means of a collar made of material generally considered acceptable to pet owners as a means of identifying their pet dogs or cats, but if the dog or cat is not purchased or acquired, affecting commerce, by said dealer or exhibitor, such animal must be so tagged at the time it is delivered for transportation, transported, or sold, affecting commerce, by said dealer or exhibitor: ² *Provided, however,* That if such dog or cat is already identified by an official tag which has been applied by another dealer or exhibitor, it is not necessary that any subsequent dealer or exhibitor replace the tag on such animal, but the (Class "B") dealer or exhibitor may replace such previously attached tag with his own official tag, and in which event, the (Class "B") dealer or exhibitor shall correctly list both official tag numbers in his records of purchase which shall be maintained in accordance with §§ 2.75 and 2.77 and the new official tag number shall be used on all records of subsequent sales of such dog or cat: *And, provided further,* That no official tag need

¹In general, well fitted collars made of leather or plastic will be acceptable under this provision. The use of certain types of chains presently used by some dealers may also be deemed acceptable. A determination of the acceptability of a material proposed for usage as collars from the standpoint of humane considerations will be made by the Division on an individual basis in consultation with the dealer or exhibitor involved. The use of materials such as wide or elastic that might readily cause discomfort or injury to dogs or cats will not be acceptable.

be affixed to any such dog or cat that has been identified by means of a distinctive and permanent tattoo marking approved by the Director.

(c) When any dealer or exhibitor has made a reasonable effort to affix an official tag to an adult cat, as set forth in paragraphs (a) and (b) of this section, and has been unable to do so, or when the cat exhibits extreme distress from the attachment of a collar and tag, the dealer or exhibitor shall attach the collar and tag to the door of the primary enclosure containing the cat and take proper measures to maintain the identity of the cat in relation to the tag. Each primary enclosure shall contain no more than one adult cat without an affixed collar and official tag.

(d) Unweaned puppies or kittens need not be individually identified as required by paragraphs (a) and (b) of this section while they are maintained as a litter with their dam in the same primary enclosure provided she has been so identified.

(e) All live dogs or cats delivered for transportation, transported, purchased, or sold, affecting commerce, by a research facility, shall be identified, at the time of such delivery for transportation, purchase, or sale, by the official tag or tattoo, which was affixed to the animal at the time it was acquired by the research facility, as provided in paragraph (a) of this section, or by a tag, tattoo, or collar, applied to the live dog or cat by the research facility and which individually identifies such dog or cat by description or number.

(f) (1) All animals, except dogs and cats, delivered for transportation, transported, purchased, or sold, affecting commerce, by any dealer or exhibitor shall be identified by the dealer or exhibitor at the time of such delivery for transportation, transportation, purchase, or sale, as provided in this paragraph.

(2) When two or more animals, other than dogs or cats, are confined in a container, they shall be identified by a label attached to the container which shall bear a description of the animals in the container, including the number of animals, species of the animals, age and sex of the animals, any distinctive physical features of the animals, and any identifying marks, tattoos, or tags attached to the animals: *Provided, however,* That if each of the animals in the container is identified by a tag or tattoo applied to the animal by the dealer or exhibitor and which individually identifies such animal by description or number, a label need not be attached to the container in which the animals are confined.

(3) When only one animal, other than a dog or cat, is confined in a container, it shall be identified as provided in subparagraph (2) of this paragraph, or by the dealer or exhibitor marking the container with a painted or stenciled number, which number shall be recorded in the records of the dealer or exhibitor together with a description of the animal, including the species, age and sex of the animal, and any distinctive physical features of the animal.

(4) When any animal, other than a dog or cat, is not confined in a container, it shall be identified on a form² which shall accompany the animal at the time it is delivered for transportation, transported, purchased, or sold, affecting commerce, and shall be kept and maintained by the dealer or exhibitor as part of his records.

§ 2.51 Form of official tag.

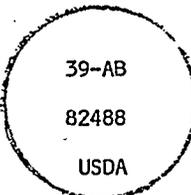
The official tag shall be made of a durable alloy such as brass, bronze, or

steel or of a durable plastic. Aluminum of a durable thickness and quality may be used. Such tag shall be circular in shape and not less than 1¼ inches in diameter. Each tag shall be embossed or stamped with the letters "USDA," and numbers and letters identifying the State, dealer, and animal, as set forth in Figure 1. Such tags shall be serially numbered and there shall be no duplication of numbers by any one dealer or exhibitor.

Denoting State and dealer or exhibitor respectively -

Denoting the animal -

Figure 1 -



§ 2.52 How to obtain tags.

Dealers or exhibitors may obtain, at their own expense, official tags from commercial tag manufacturers.³ At the time a dealer or exhibitor is issued a license, the Department will assign him dealer or exhibitor identification letters and inform him of the State number to be used on his official tags.

§ 2.53 Use of tags.

Official tags obtained by a dealer or exhibitor shall be applied to dogs or cats in the manner set forth in § 2.50 and in as near consecutive numerical order as possible. No tag number shall be used to identify more than one animal.

§ 2.54 Lost tags.

Each dealer or exhibitor shall be held accountable for all official tags that he acquires. In the event an official tag is lost from the neck of a dog or cat while in the possession of a dealer or exhibitor, a diligent effort shall be made to locate and reapply such tag to the proper animal. If the lost tag is not located, the dealer or exhibitor shall affix another official tag to the animal in the manner prescribed in § 2.50, and make a notation of the tag number on his official records.

§ 2.55 Removal of tag.

(a) When a dog or cat wearing or identified by an official tag arrives at a research facility, such tag shall be removed and retained by the research facility: *Provided, however,* That at the discretion of the research facility such tag may be used to continue the identification of such dog or cat.

(b) If a dealer, exhibitor, or research facility finds it necessary humanely to dispose of a live dog or cat to which is affixed or which is identified by an official tag, or upon the death of such dog or cat

from other causes, the dealer, exhibitor, or research facility shall remove and retain such tag for the required period.

(c) All official tags removed and retained by a dealer, exhibitor, or research facility shall be held until called for by a Division representative or for a period of 1 year.

(d) When official tags are disposed of, they must be disposed of in such a manner to preclude their reuse as animal identification.

RECORDS

§ 2.75 Records, dealers.

(a) In connection with each animal purchased or otherwise acquired, held, transported, or sold or otherwise disposed of, a dealer shall keep and maintain the following information on the forms supplied and in the manner prescribed by the Division:

(1) The names and address of the person from whom acquired, and the person to whom sold or otherwise disposed of, and his license number if licensed as a dealer, exhibitor, or operator of an auction sale;

(2) The dates of acquisition and disposition;

(3) The description and identification of the animals, including any official tag number or tattoo number as affixed, pursuant to §§ 2.50 and 2.54;

(4) When animals are sold by a dealer, the method of transportation of such animals; and (i) the name of the common carrier or (ii) the license number or other identification of the means of conveyance; and the name and address of the driver of the means of conveyance;

(5) The nature and method of disposition, e.g. sale, death, euthanasia, or donation; and

(b) One copy of ANH Form 18-5, revised, completed as required by this section, shall accompany each shipment of animals acquired by a dealer and one copy of ANH Form 18-6, revised, completed as required by this section, shall accompany each shipment of animals sold or otherwise disposed of by a dealer.

§ 2.76 Records, exhibitors.

(a) In connection with each animal purchased or otherwise acquired, held,

transported, or sold or otherwise disposed of, an exhibitor shall keep and maintain the following information on the forms supplied and in the manner prescribed by the Division: *Provided, however,* That any exhibitor may transport to a new location for exhibition purposes such animals, for which a form has been completed and is being kept by the exhibitor in accordance with this section, without completing a new form.

(1) The name and address of the person from whom acquired, and the person to whom sold or otherwise disposed of, and his license number if licensed as a dealer, exhibitor, or operator of an auction sale;

(2) The dates of acquisition and disposition;

(3) Description and identification of animals including any official tag number or tattoo number affixed pursuant to §§ 2.50 and 2.54;

(4) When animals are sold by an exhibitor, the method of transportation of such animals; and (i) the name of the common carrier or (ii) the license number or other identification of the means of conveyance; and the name and address of the driver of the means of conveyance;

(5) The nature and method of disposition, e.g., sale, death, euthanasia, or donation.

(b) One copy of ANH Form 18-5, revised, completed as required by this section, shall accompany each shipment of animals acquired by an exhibitor, and one copy of ANH Form 18-6, revised, completed as required by this section, shall accompany each shipment of animals sold or otherwise disposed of by the exhibitor.

§ 2.77 Records, research facilities.

(a) In connection with each live dog and cat purchased or otherwise acquired, a research facility shall keep and maintain the following information on the forms supplied and in the manner prescribed by the Division:

(1) The name and address of the person from whom such animal was purchased or acquired, and his license number if licensed as a dealer, exhibitor, or operator of an auction sale;

(2) The date acquired; and

(3) The description and identification of such animal, including the official tag number or tattoo number, if one is affixed, and any identification number or letter assigned to the animal by such research facility.

(b) In connection with all live dogs and cats transported, sold, or otherwise disposed of by a research facility to another person, such research facility shall keep and maintain, on forms supplied by and in the manner prescribed by the Division:

(1) The name and address of the person to whom the animal is transported, sold, or otherwise disposed of;

(2) The date of such sale or disposition;

(3) The method of transportation; and

(4) The name of the common carrier, or the identification of the means of conveyance, and the name and address

² Such forms will be furnished to the dealer or exhibitor, upon request, by the Administrator.

³ A list of the commercial manufacturers who produce such tags and are known to the Department may be obtained from the Veterinarian in Charge. Any manufacturer who desires to be included in such a list should notify the Director.

of the driver of such means of conveyance.

(c) One copy of ANH Form 18-6, revised, completed as required by this section, shall accompany each shipment of dogs or cats sold or otherwise disposed of by a research facility.

§ 2.78 Records, operator of auction sale.

(a) In connection with each animal consigned at an auction sale, for which a commission or fee may or may not be charged, an operator of an auction sale shall keep and maintain the following information on the forms supplied and in the manner prescribed by the Division:

(1) The name and address of the person who consigned such animal to the auction sale and his USDA license number if licensed as a dealer or exhibitor;

(2) The date of consignment;

(3) The description and identification of such animal, including the official tag number or tattoo number, if one is affixed to the animal when consigned;

(4) The auction sales number assigned to the animal; and

(5) The name and address of the buyer and his USDA license number if licensed as a dealer or exhibitor.

(b) A copy of the form required by paragraph (a) of this section shall be given to the consignor and purchaser of each animal sold at the auction sale.

§ 2.79 Records, disposition.

(a) Except as otherwise provided in paragraph (b) of this section, no dealer, exhibitor, operator of an auction sale, or research facility shall, within a period of 2 years from the making thereof, destroy or dispose of, without the consent in writing of the Director, any books, records, documents, or other papers required to be kept and maintained under this part.

(b) The records required to be kept and maintained under this part shall be held for such period in excess of the 2-year period specified in paragraph (a) of this section if necessary to comply with any Federal, State, or local law. When the Director notifies the dealer, exhibitor, operator of an auction sale, or research facility in writing that specified records shall be retained pending completion of an investigation or proceeding under the Act, such dealer, exhibitor, operator of an auction sale, or research facility shall hold such records until their disposition is authorized by the Director.

COMPLIANCE WITH STANDARDS AND HOLDING PERIOD

§ 2.100 Compliance with standards.

Each dealer, exhibitor, operator of an auction sale, and research facility shall comply in all respects with the standards set forth in Part 3 of this subchapter setting forth the standards for the humane handling, care, treatment, and transportation of animals: *Provided, however,* That nothing in these rules, regulations, or standards shall affect or interfere with the design, outlines, guidelines, or performances of actual research or experimentation by a re-

search facility as determined by such research facility.

§ 2.101 Holding period.

(a) Any dog or cat acquired by a dealer⁴ or exhibitor shall be held by him, under his supervision and control, for a period of not less than 5 business days after acquisition of such animal: *Provided, however,* That (1) dogs or cats which have completed a 5-day holding period may be disposed of by subsequent dealers or exhibitors after a minimum holding period of one calendar day by each such subsequent dealer or exhibitor, excluding time in transit; (2) any dog or cat suffering from disease, emaciation or injury may be destroyed by euthanasia prior to the completion of the holding period required by this section.

(b) During the period in which any dog or cat is being held as required by this section, such dog or cat shall be unloaded from any means of conveyance in which it was received, for feed, water, and rest, and handled, cared for, and treated in accordance with the standards set forth in §§ 3.1 through 3.10 of this subchapter. (For purposes of this section, "business day" shall mean any day of the week during which the dealer or exhibitor normally operates his business. For purposes of this section, "calendar day" shall mean from midnight to midnight (example: A dog or cat purchased on the third day of a month may be disposed of on the fifth day of that month).)

(c) If any dealer or exhibitor obtains the prior approval of the Veterinarian in Charge, he may arrange to have another person hold such animals for the required period provided for in paragraph (a) of this section: *Provided, however,* That such other person agrees in writing to comply with the regulations of this Part 2 and the standards in Part 3 of this subchapter and to allow inspection by a Division representative of his premises: *And provided further,* That the dogs and cats still remain under the control of the dealer: *And provided further,* That a dealer or exhibitor holding a license as set forth in § 2.4 shall not be granted a permit to operate a "holding facility" for another licensed dealer.

MISCELLANEOUS

§ 2.125 Information as to business; furnishing of by dealers, exhibitors, operators of auction sales, and research facilities.

Each dealer, exhibitor, operator of an auction sale, and research facility shall furnish to Division representatives, any information concerning the business of the dealer, exhibitor, operator of an auction sale, or research facility which may be requested by them in connection with the enforcement of the provisions of the Act, the regulations and the standards in this subchapter, within such reasonable time as may be specified in the request for such information.

⁴An operator of an auction sale is not considered to have acquired a dog or cat which is sold through an auction sale.

§ 2.126 Access and inspection of records and property.

Each dealer, exhibitor, operator of an auction sale, or research facility, shall, upon request, during ordinary business hours, permit Division representatives, or other Federal officers or employees designated by the Secretary to enter his place of business to examine records required to be kept by the Act and the regulations in this Part, and to make copies of such records, and permit Division representatives to enter his place of business, to inspect such facilities, property, and animals as such representatives consider necessary to enforce the provisions of the Act, the regulations and the standards in this subchapter. The use of a room, table, or other facilities necessary for the proper examination of such records and inspection of such property or animals shall be extended to such authorized representatives of the Secretary by the dealer, exhibitor, operator of an auction sale, or research facility, his agents and employees.

§ 2.127 Publication of names of persons subject to the provisions of this subpart.

Lists of persons licensed or registered, pursuant to the provisions of this part, shall be published periodically by the Division in the FEDERAL REGISTER. Such lists may also be obtained upon request from the Veterinarian in Charge.

§ 2.128 Inspection for missing animals.

(a) Each dealer, exhibitor, operator of an auction sale, and research facility shall, upon request, during ordinary business hours, permit, under the following conditions, police or law officers of legally constituted law enforcement agencies with general law enforcement authority (not those agencies whose duties are limited to enforcement of local animal regulations) to enter the place of business of such dealer, exhibitor, operator of an auction sale, or research facility to inspect animals and records for the purpose of seeking animals that are missing:

(1) The police or law officer shall furnish to the dealer, exhibitor, operator of an auction sale, or research facility a written description of the missing animal and the name and address of its owner before making such a search.

(2) The police or law officer shall abide by all security measures required by the dealer, exhibitor, operator of an auction sale, or research facility to prevent the spread of disease, including the use of sterile clothing, footwear, and masks where required, or to prevent the escape of an animal.

(b) Such inspection for missing animals by law enforcement officers shall not extend to animals that are undergoing actual research or experimentation by a research facility as determined by such research facility.

§ 2.129 Confiscation and destruction of animals.

(a) If an animal being held by a dealer, exhibitor, or operator of an auction sale, or an animal being held by a research facility which is no longer re-

quired by such research facility to carry out the research test or experiment for which it has been utilized, is found by a Division representative to be suffering as a result of the failure of the dealer, exhibitor, operator of an auction sale, or research facility to comply with any provision of the Act or any provision of the regulations or the standards set forth in this subchapter, the Division representative shall make a reasonable effort to notify the dealer, exhibitor, operator of an auction sale, or research facility of the condition of such animal and request that the condition be corrected and that adequate veterinary care be given when necessary to alleviate the animal's suffering, or that the animal be destroyed by euthanasia. In the event that the dealer, exhibitor, operator of an auction sale or research facility refuses to comply with such request, the Division representative may confiscate or destroy such animal by euthanasia if in the opinion of the Director the circumstances warrant such action.

(b) In the event that the Division representative is unable to locate or notify the dealer, exhibitor, operator of an auction sale, or research facility as required in this section, the Division representative shall contact a local police or law officer to accompany him to the premises and shall provide for adequate veterinary care when necessary to alleviate the animal's suffering or, if in the opinion of the Director the condition of the animal cannot be corrected by veterinary care, the Division representative shall confiscate and destroy the animal by euthanasia with such costs as may be incurred to be borne by the dealer, exhibitor, operator of an auction sale, or research facility.

(c) Prior to making any decision regarding the destruction of any animal of a species designated by the Department of the Interior or the International Union for the Conservation of Nature and Natural Resources as an endangered species, the Director shall, when possible in his judgment, consult with representatives of said Department and the International Union for the Conservation of Nature and Natural Resources.

PART 3—STANDARDS

§§ 3.10, 3.34, 3.59, 3.84 [Amended]

2. Sections 3.10, 3.34, 3.59, and 3.84 of Part 3 would be amended by adding a new paragraph (c) to each of said sections to read as follows:

(c) (1) In the case of a research facility, the program of adequate veterinary care shall include the appropriate use of anesthetic, analgesic, or tranquilizing drugs, when such use would be proper in the opinion of the attending veterinarian at the research facility. The use of these three classes of drugs shall be in accordance with the currently accepted veterinary medical practice as cited in appropriate professional journals or reference guides which shall produce in the individual subject animal the highest level of tranquilizing anesthesia or analgesic possible consistent with the protocol or design of the experiment.

(2) It shall be incumbent upon each research facility through their Animal Care Committee and/or attending veterinarian to research and develop guidelines for the use of tranquilizers, anesthetics, or analgesics appropriate for each species of animal used by that institution.

(3) The use of these three classes of drugs shall effectively minimize the pain and discomfort of the animals while under experimentation.

3. A new Subpart E would be added to Part 3 to read as follows:

Subpart E—Specifications for the Humane Handling, Care, Treatment, and Transportation of Warm-blooded Animals Other Than Dogs, Cats, Rabbits, Hamsters, Guinea Pigs, and Nonhuman Primates

FACILITIES AND OPERATING STANDARDS

Sec.

- 3.100 Facilities, general.
- 3.101 Facilities, indoor.
- 3.102 Facilities, outdoor.
- 3.103 Space requirements.

ANIMAL HEALTH AND HUSBANDRY STANDARDS

- 3.104 Feeding.
- 3.105 Watering.
- 3.106 Sanitation.
- 3.107 Employees.
- 3.108 Separation.
- 3.109 Veterinary care.
- 3.110 Handling.
- 3.111 Vehicles.
- 3.112 Primary enclosures used to transport animals.
- 3.113 Food and water requirements.
- 3.114 Care in transit.

FACILITIES AND OPERATING STANDARDS

§ 3.100 Facilities, general.

(a) *Structural strength.* The facility must be constructed of such material and of such strength as appropriate for the animals involved. The housing facilities shall be structurally sound and shall be maintained in good repair to protect the animals from injury, and to contain the animals.

(b) *Water and power.* Reliable and adequate electric power, if required to comply with other provisions of this subpart, and adequate potable water shall be available on the premises.

(c) *Storage.* Supplies of food and bedding shall be stored in facilities which adequately protect such supplies against deterioration, molding, or contamination by vermin. Refrigeration shall be provided for supplies of perishable food.

(d) *Waste disposal.* Provision shall be made for the removal and disposal of animal and food wastes, bedding, dead animals, trash, and debris. Disposal facilities shall be so provided and operated as to minimize vermin infestation, odors, and disease hazards. The disposal facilities and any disposal of animal and food wastes, bedding, dead animals, trash, and debris shall comply with applicable Federal, State, and local laws and regulations relating to pollution control or the protection of the environment.

(e) *Washroom and sinks.* Facilities, such as washrooms, basing, showers, or sinks, shall be provided to maintain cleanliness among animal caretakers.

§ 3.101 Facilities, indoor.

(a) *Ambient temperatures.* Temperature in indoor housing facilities shall be sufficiently regulated by heating or cooling to protect the animals from the extremes of temperature, to provide for their health and to prevent their discomfort. The ambient temperature shall not be allowed to fall below nor rise above temperatures compatible with the health and comfort of the animal.

(b) *Ventilation.* Indoor housing facilities shall be adequately ventilated by natural or mechanical means to provide for the health and to prevent discomfort of the animals at all times. Such facilities shall be provided with fresh air either by means of windows, doors, vents, fans, or air-conditioning and shall be ventilated so as to minimize drafts, odors, and moisture condensation.

(c) *Lighting.* Indoor housing facilities shall have ample lighting, by natural or artificial means, or both, of good quality, distribution, and duration as appropriate for the species involved. Such lighting shall be uniformly distributed and of sufficient intensity to permit routine inspection and cleaning. Lighting of primary enclosures shall be designed to protect the animals from excessive illumination.

(d) *Drainage.* A suitable sanitary method shall be provided to rapidly eliminate excess water from indoor housing facilities. If drains are used, they shall be properly constructed and kept in good repair to avoid foul odors and installed so as to prevent any backup of sewage. The method of drainage shall comply with applicable Federal, State, and local laws and regulations relating to pollution control or the protection of the environment.

§ 3.102 Facilities, outdoor.

(a) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort of the animals, sufficient shade by natural or artificial means shall be provided to allow all animals kept outdoors to protect themselves from direct sunlight.

(b) *Shelter from inclement weather.* Natural or artificial shelter appropriate to the local climatic conditions for the species concerned shall be provided for all animals kept outdoors to afford them protection and to prevent discomfort to such animals. Individual animals shall be acclimated before they are exposed to the extremes of the individual climate.

(c) *Drainage.* A suitable method shall be provided to rapidly eliminate excess water. The method of drainage shall comply with applicable Federal, State, and local laws and regulations relating to pollution control or the protection of the environment.

§ 3.103 Space requirements.

Enclosures shall be constructed and maintained so as to provide sufficient space to allow each animal to make normal postural and social adjustments with adequate freedom of movement. Inadequate space may be indicated by evidence of malnutrition, poor condition, debility, stress, or abnormal behavior patterns.

ANIMAL HEALTH AND HUSBANDRY
STANDARDS

§ 3.104 Feeding.

(a) The food shall be wholesome, palatable, and free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health. The diet shall be prepared with consideration for the age, species, condition, size, and type of the animal. Animals shall be fed at least once a day except as dictated by hibernation, veterinary treatment, normal fasts, or other professionally accepted practices.

(b) Food, and food receptacles, if used, shall be sufficient in quantity and located so as to be accessible to all animals in the enclosure and shall be placed so as to minimize contamination. Food receptacles shall be kept clean and sanitary at all times. If self feeders are used, adequate measures shall be taken to prevent molding, contamination, and deterioration or caking of food.

§ 3.105 Watering.

If potable water is not accessible to the animals at all times, it must be provided as often as necessary for the health and comfort of the animal. Frequency of watering shall consider age, species, condition, size, and type of the animal. All water receptacles shall be kept clean and sanitary.

§ 3.106 Sanitation.

(a) *Cleaning of enclosures.* Excreta shall be removed from primary enclosures as often as necessary to prevent contamination of the animals contained therein and to prevent disease hazards and to reduce odors. When enclosures are cleaned by hosing or flushing, adequate measures shall be taken to protect the animals confined in such enclosures from being directly sprayed with the stream of water or wetted involuntarily.

(b) *Sanitation of enclosures.* Subsequent to the presence of an animal with an infectious or transmissible disease, cages, rooms, and hard surface pens or runs shall be sanitized either by washing them with hot water (180° F.) and soap or detergent, as in a mechanical washer, or by washing all soiled surfaces with a detergent solution followed by a safe and effective disinfectant, or by cleaning all soiled surfaces with saturated live steam under pressure. Pens or runs using gravel, sand, or dirt, shall be sanitized when necessary as directed by the attending veterinarian.

(c) *Housekeeping.* Premises (buildings and grounds) shall be kept clean and in good repair in order to protect the animals from injury and to facilitate the prescribed husbandry practices set forth in this subpart. Accumulations of trash shall be placed in designated areas and cleared as necessary to protect the health of the animals.

(d) *Pest control.* A safe and effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained.

§ 3.107 Employees.

A sufficient number of adequately trained employees shall be utilized to maintain the prescribed level of husbandry practices set forth in this subpart. Such practices shall be under a supervisor who has a background in animal care.

§ 3.108 Separation.

Animals housed in the same primary enclosures must be compatible. Animals shall not be housed near animals that interfere with their health or cause them discomfort.

§ 3.109 Veterinary care.

(a) Programs of disease prevention and parasite control, euthanasia, and adequate veterinary care shall be established and maintained under the supervision of a veterinarian. The pest control program shall be reviewed by the veterinarian for the safe use of materials and methods. Such veterinarian shall be a graduate of an approved college of veterinary medicine.

(b) Animals shall be observed every day by the person in charge of the care of the animals or by someone working under his direct supervision. Sick or diseased, stressed, injured, or lame animals shall be provided with veterinary care or humanely destroyed.

(c) (i) In the case of a research facility, the program of adequate veterinary care shall include the appropriate use of anesthetic, analgesic, or tranquilizing drugs, when such use would be proper in the opinion of the attending veterinarian at the research facility. The use of these three classes of drugs shall be in accordance with the currently accepted veterinary medical practice as cited in appropriate professional journals or reference guides which shall produce in the individual subject animal the highest level of tranquilizing anesthesia or analgesic possible consistent with the protocol or design of the experiment.

(2) It shall be incumbent upon each research facility through their Animal Care Committee and/or attending veterinarian to research and develop guidelines for the use of tranquilizers, anesthetics, or analgesics appropriate for each species of animal used by that institution.

(3) The use of these three classes of drugs shall effectively minimize the pain and discomfort of the animals while under experimentation.

§ 3.110 Handling.

(a) Handling of animals shall be done as expeditiously as possible in a way so as not to cause undue discomfort, behavioral stress, or physical harm to the animal. Handling shall apply to crating, shifting, transfer, immobilizing, restraining, treating, training, performing, working, as well as other necessary procedures.

(b) Animals to which the public is afforded direct contact shall only be displayed for periods of time and under conditions consistent with the animal's health and not leading to their discomfort.

(c) During public display, the animals must be handled so there is minimal risk of harm to the public with sufficient distance allowed between animal acts and the viewing public to assure safety to both the public and the animals. Performing animals shall be allowed a rest period between performances equal to the time for one performance.

TRANSPORTATION STANDARDS

§ 3.111 Vehicles.

(a) Vehicles used in transporting animals shall be mechanically sound and equipped to provide adequate fresh air, both when moving and stationary, to all animals being transported, without injurious drafts or discomfort.

(b) The animal cargo space shall be so constructed and maintained as to prevent the ingress of the vehicle's exhaust gases.

(c) The interior of the animal cargo space shall be kept physically clean.

(d) The ambient temperature shall be sufficiently regulated by heating or cooling to protect the animals from the extremes of temperature and to provide for their health and to prevent their discomfort. The ambient temperature shall not be allowed to fall below nor rise above temperatures compatible with the health and comfort of the animal.

§ 3.112 Primary enclosures used to transport animals.

(a) Primary enclosures, such as compartments, transport cages or crates, used to transport animals shall be well-constructed, well-ventilated, and designed to protect the health and insure the safety of the animals. Such enclosures shall be constructed or positioned in the vehicle in such a manner that (1) each animal in the vehicle has access to sufficient air for normal breathing, (2) the openings of such enclosures are easily accessible at all times for emergency removal of the animal and (3) the animals are afforded adequate protection from the elements.

(b) Animals transported in the same primary enclosure shall be compatible. Socially dependent individuals (e.g., siblings, dam and young cagemates) must be allowed visual and olfactory contact.

(c) Primary enclosures used to transport animals shall be large enough to insure that each animal contained therein has sufficient space to turn about freely and to make normal postural adjustments: *Provided, however,* That certain species may be restricted in their movements according to professionally acceptable standards when such freedom of movement would constitute a danger to the animals or their handlers.

(d) Animals shall not be placed in primary enclosures over other animals in transit unless each enclosure is fitted with a floor of a material which prevents animal excreta or other wastes from entering lower enclosures.

(e) Primary enclosures used to transport animals shall be cleaned and sanitized before and after each shipment. All bedding in the vehicle shall be clean at the beginning of each trip.

§ 3.113 Food and water requirements.

(a) Potable water shall be provided to each animal at least once in each 12-hour period. Those animals which, by common accepted practice, require watering more frequently shall be so provided.

(b) Each animal shall be fed at least once in each 24-hour period. Those animals which, by common accepted practice, require feeding more frequently shall be so fed.

(c) A sufficient quantity of food and water shall accompany the animal to provide food and water for such animal for a period of at least 24 hours.

§ 3.114 Care in transit.

(a) It shall be the responsibility of the attendant or driver to inspect the ani-

mals frequently enough to assure the health and comfort of the animals.

(b) In the event of a breakdown or delay of the vehicle, it is the responsibility of the animal caretaker or vehicle operator to assure that animals get adequate ventilation and protection from fumes, vehicle exhaust, extremes in temperature, and that the animals are not subjected to undue discomfort.

(c) In an emergency concerning the health and welfare of the animals, adequate veterinary care shall be provided without delay.

Any person who wishes to submit written data, views, or arguments concerning this proposal may do so by filing them with the Director, Animal Health Divi-

sion, Agricultural Research Service, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Md. 20782, within 45 days after publication of this notice in the FEDERAL REGISTER.

All written submissions made pursuant to this notice will be made available for public inspection at times and places and in a manner convenient to the public business (7 CFR 1-27(b)).

Done at Washington, D.C., this 10th day of October 1971.

F. J. MULHERN,
Acting Administrator,
Agricultural Research Service.

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PART III

OFFICE OF EMERGENCY PREPAREDNESS

■

Supplementary Guidance for Application

■

Economic Stabilization Circular No. 102
and Subject Index for Circular Nos. 101
and 102

Title 32A—NATIONAL DEFENSE, APPENDIX

Chapter I—Office of Emergency Preparedness

[OEP Economic Stabilization Reg. 1; Circular
No. 102]

SUPPLEMENTARY GUIDANCE FOR APPLICATION

Economic Stabilization Circular No. 102

This circular is designed for general information only. The statements herein are intended solely as general guides compiled from OEP Economic Stabilization Circulars 11 through 20 and do not constitute legal rulings applicable to cases which do not conform to the situations clearly intended to be covered by such guides. OEP Economic Stabilization Circulars 11 through 20 are hereby superseded.

Note: Provisions of this and any subsequent compiled circulars are subject to clarification, revision or revocation.

This second compilation circular covers separate circulars issued from September 10 through October 14, 1971.

APPENDIX I

ECONOMIC STABILIZATION CIRCULAR NO. 102

100. Purpose. (1) On August 15, 1971, President Nixon issued Executive Order No. 11615, as amended, providing for stabilization of prices, rents, wages, and salaries and establishing the Cost of Living Council, a Federal agency. The order delegated to the Council all of the powers conferred on the President by the Economic Stabilization Act of 1970, as amended. The effective date of the order was 12:01 a.m., August 16, 1971.

(2) By its Order No. 1 the Council delegated to the Director of the Office of Emergency Preparedness authority to administer the program for the stabilization of prices, rents, wages, and salaries as directed by section 1 of Executive Order No. 11615, as amended.

(3) Executive Order No. 11627 was issued on October 15, 1971, to further implement the President's stabilization program. The Order superseded Executive Order No. 11615 of August 14, 1971, but provided in section 13 that all orders, regulations, circulars, or other directives issued and all other actions taken pursuant to Executive Order No. 11615, as amended, are hereby confirmed and ratified, and shall remain in full force and effect, as if issued under this Order, unless and until altered, amended, or revoked by the Council or by such competent authority as the Council may specify.

(4) The purpose of this compilation, the second in a series to be issued, is to consolidate in one document all of the determinations issued by the Cost of Living Council incorporated in economic stabilization circulars previously pub-

lished in the FEDERAL REGISTER from September 11 through October 15, 1971.

This document is, in effect, a summarization and reclassification of such determinations.

(5) The second paragraph of Economic Stabilization Circular No. 101, section 100(3) is amended to read as follows:

"To the extent that any provision of this circular may be inconsistent with the provisions of OEP Economic Stabilization Circulars 11, 12, 13, or 14, the provisions of Circulars 11, 12, 13, or 14 control. To the extent that any provision of this circular may be inconsistent with the provisions of OEP economic stabilization circulars issued or published after the date of this circular, the provisions of the most recently issued or published circular control."

(6) To the extent that any provision of this circular may be inconsistent with the provisions of any OEP economic stabilization circular issued or published subsequently to Economic Stabilization Circular No. 20, the provisions of such subsequently issued or published circular shall control.

200. Authority. (1) Relevant legal authority for the program includes the following:

The Constitution.
Economic Stabilization Act of 1970, Public Law 91-379, 84 Stat. 799; Public Law 92-15, 85 Stat. 38.

Executive Order No. 11615, as amended, 36 F.R. 15127, August 17, 1971.

Cost of Living Council Order No. 1, 36 F.R. 16215, August 20, 1971.

OEP Economic Stabilization Regulation No. 1, as amended, 36 F.R. 16515, August 21, 1971.

Executive Order No. 11627, 36 F.R. 20139, October 15, 1971.

300. General guidelines. (1) The guidance in this circular is in the nature of a compilation or consolidation of that previously offered in Economic Stabilization Circulars Nos. 11 through 20.

(2) The numbering system used in this circular corresponds to that used in OEP Economic Stabilization Circular No. 101.

(3) There is being published concurrently herewith as a part hereof a consolidated index to both previously published Economic Stabilization Circular No. 101 and to the subject Economic Stabilization Circular No. 102.

301. Base period. (1) The Economic Stabilization Act of 1970 states that "The President is authorized to issue such orders and regulations as he may deem appropriate to stabilize prices, rents, wages, and salaries at levels not less than those prevailing on May 25, 1970."

The level of prices, rents, wages, and salaries prevailing on May 25, 1970, is determined as follows: (a) The average (mean) price at which transactions were made on that day (as borne out by appropriate records); (b) if no actual transactions took place on that day, then the average (mean) price at which transactions took place on the nearest day prior to May 25, 1970, may be taken as the "prevailing" level for May 25, 1970;

and (c) ceiling prices for products, services, and jobs not in existence on May 25, 1970, can only be calculated using the base period described by Executive Order 11615 and subsequent guidelines issued by the Cost of Living Council.

(2) Determination of 30-day base period: As used in OEP Economic Stabilization Regulation No. 1, the term "base period" for any commodity, service, rent, salary, or wage includes the period from July 16, 1971, through August 14, 1971. In cases where no transactions occurred in this 30-day base period, the base period will be the nearest preceding 30-day period in which a transaction did occur. "Thirty-day period" is defined as a 30-day block of time prior to July 16. Hence, moving back from July 16, the nearest preceding 30-day period would be June 16-July 15 and preceding that, May 17-June 15, and so on.

302. Transactions. (1) In applying the substantial transactions test to determine the ceiling price that a businessman can charge his customers in the United States, he may not include prices on goods he exported during the base period.

(2) A manufacturer of holiday specialty items received and accepted firm orders during the base period. Items shipped during the freeze period cannot be based on the price at which he accepted these orders. By definition, a transaction occurs when goods are shipped. The ceiling price is the price at which a substantial volume of goods were shipped during the base period. In the case of the holiday items, the base period would be the nearest 30-day period in which transactions occurred.

(3) Intracorporate transaction prices are not frozen. However, the ceiling price for any external transaction must be calculated solely on the basis of extracorporate transactions during the base period.

(4) The price at which an order was taken and secured by a deposit prior to August 15 does not constitute a transaction price for purposes of establishing the seller's ceiling price. There must be shipment of the merchandise to constitute a transaction.

(5) When a service contract involves either performance in several stages (some of which may be preparatory to performing the final service), performance of a continuous nature, or performance periodically, a transaction is considered to have taken place when the buyer actually receives the first unit of final service called for under the contract. Work in progress preparatory to provision of the final service does not qualify as a transaction.

(6) Many industries, such as liquor, public utilities, and transportation, are required by State laws to publish proposed price or rate changes for a period of time prior to the date on which the changes are to become effective. Where such a legal requirement for posting of prices prior to implementation has resulted in price increases becoming effective during the freeze, the transactions rule may not be modified to permit these

price increases to stand. The ceiling prices during the freeze are the highest prices charged in a substantial number of transactions in the base period.

303. *Seasonal patterns.* (1) A processor of agricultural products who, because of seasonal operations made no new sales in the base period, except forward sales, cannot sell at prices which prevailed in his marketing area for similar products in the 30 days ending August 14. Such processors are frozen at their price in either the 30-day period prior to August 15, or the price of their substantial deliveries during the last 30 days of operation in the previous season, or the seasonal price ceiling if the seller meets the criteria of the seasonality rule, or the May 25, 1970, date ceiling.

(2) Candy manufacturers who make specialized holiday candies for occasions such as Halloween, Thanksgiving, and Christmas must use the prices of the last shipments of such candies—probably those made last year prior to the special event involved—to establish their ceiling prices. They may not base their ceiling price or rates on similar candies with different shapes during this year's pre-freeze base period.

If manufacturers develop new compositions or shapes, then pricing must be computed on the basis of comparable products in the base period.

However, if changes are made only in the color, size, or shape of the container or only in the color of the candy, manufacturers may compute their prices using either the prefreeze base period, or, if the seasonality rule applies, last year's prices.

304. *Medicare.* (1) All medical fees for individual services, including those covered by Medicare, are frozen.

Medicare is an insurance program. Thus Medicare payments to physicians, hospitals, and others providing medical services are not prices but are, like other insurance settlements, reimbursements not subject to the freeze.

305. *Medicaid.* (1) Medicaid is a public assistance program and, accordingly, Medicaid payments are not frozen. However, payment schedules established during the base period for medical services provided under the Medicaid program are considered to be prices and are frozen. In effect, then, the Medicaid reimbursements (per unit of service) based on these payment schedules are frozen.

400. *Price guidelines.*

401. *General.* (1) A product or service is new if it is substantially different from other products or services in purpose, function, or technology, or if its use results in a substantially different outcome.

A product or service that differs slightly from other products and services in appearance, arrangement, or combination is not considered to be "new." Changes that are solely a matter of fashion, style, form, or packaging, do not qualify a product as "new." A slight functional modification to an existing product or service does not make it "new." What is normally referred to as a "new model" is not necessarily a "new product."

(2) Quantity discounts are allowed off list price, the discount depending on the type of customer. List prices for certain classes of customer changed during the base period. A separate ceiling should be applied to each class of customer distinguished in the system of discounts. The net price charged during the freeze can be no higher than was charged on at least 10 percent of the units shipped to the given class of customer during the base period.

(3) Prices of goods and services sold by U.S. suppliers or manufacturers to U.S. Government installations overseas are not considered as exports and are subject to the freeze.

(4) An exemption will not be granted to local governments to permit them to shift financing of sewage service from general taxes to a sewage usage rate.

(5) Certain types of business costs, such as property taxes, employees' annual bonuses and paid vacations, are customarily liquidated all at once, for a full year at a time. So are corporate dividends in a great many cases. The regulation does not necessarily mean that the amount actually paid during the freeze cannot exceed the amount of the last previous payment (cash basis accounting) nor does it mean that the amount accrued during the freeze cannot exceed the monthly rate of the last previous accrual (delivery accounting). The ceiling for payments of this nature is set by established corporate practice, whether accrued or cash basis. The only restriction on the computing of present ceilings is that, regardless of the basis selected, it must not be used to circumvent the spirit and intent of the freeze.

(6) Where a manufacturer increases the quantity size of packaging of his product for sale, his ceiling price for the new packaging size is determined by the highest price per unit of measure typically used, i.e., fluid ounce, pint, etc., at which he shipped or furnished his commodity to purchasers in a substantial number of transactions during the base period: *Provided*, That the price for the new packaging size does not exceed the ceiling price prevailing for comparable commodities of comparable packaging size in the same locality.

(7) A domestic manufacturer sells components to another domestic manufacturer for installation on products earmarked for export by the latter. These components are specified by the foreign purchaser. The price of the components is subject to the freeze.

402. *Price ceilings.* (1) The ceiling price of a new product or service is determined by the seller applying the percentage markup he received during the base period on the most nearly similar product or service to the direct unit or net invoice cost of the new product or service.

(2) The ceiling price of a product or service that is new to the seller, but not to the market, is the price realized on the same or comparable product or service by the most nearly comparable competitor during the base period.

(3) TV/radio advertising: Ceiling prices for television and radio advertising charges may be determined on the basis of (a) the rates charged for the same program shown during the base period, or (b) the rates charged for the same time segment (day and time) during the base period. However, each seller must calculate the ceiling price for all his programs on the same basis.

Several earlier rulings made by the Council may have important applications in the broadcasting industry. First, the seasonality ruling may be applicable in some situations. Second, established formulas that provide for adjustments to advertising rates based on audience ratings may continue to be used as in the base period. Third, ceiling prices for advertising rates on new programs are to be established per the Council's ruling on new products and services.

(4) Businesses may change their operating practices during the freeze, so long as the change in these practices does not result in a circumvention of the intent of the wage-price-rent freeze. The business must be able to document that ceiling wages, prices, and rents based on the changed practices are comparable to ceiling wages, prices, and rents charged for similar products and services during the base period.

For instance, if a firm decides to change from selling only a finished product to selling raw materials and the service of processing raw materials, the firm must sell raw materials to anyone, not just those buying his processing service. The price for a raw material must be determined in accordance with Council rulings previously announced.

If a firm changes from selling a finished product to selling the processing service, the price for the processing service must relate only to service actually being provided. For example, a firm sold a processed product for \$150 per unit during the base period and this price included \$50 for the raw material, thus making the charge for the processing \$100. During the freeze the price for that service would not be \$100 per unit since the \$150 per unit price for the processed product included (in addition to the \$50 per-unit purchase price for raw materials) brokerage, inventory-carrying, overhead, and other services related to the raw materials. Hence, the price for the processing service alone would be lower than \$100 because the value of the services applied to the raw material cannot be included since the service is not provided.

(5) Producers of castings, forgings, and special machined parts, often produce to a manufacturer's proprietary design and/or with customer owned proprietary patterns, molds, and dies. Production generally is in quantity runs, which may occur as infrequently as every 2 to 3 years. The cost of production in the 1971 base period may exceed the price at which the item was last shipped. If the producer refuses the order, his customer can take the design to a manufacturer who can price the production run in accordance

with more recent production of comparable items, thus avoiding the intent of placing a ceiling price on the original supplier. No changes in the application of current policy may be permitted, however. The price during the freeze must be held to that at which substantial transactions last occurred, unless other provisions of the regulation and pertinent circulars afford relief.

(6) Where sporting events are being presented in new facilities, prices may be adjusted to levels prevailing for comparable service in that locality in the base period. Capital improvements to existing facilities are not of themselves sufficient basis for increasing prices.

The burden of proof is on the vendor and his records should be adequate to show the basis for determination of these price levels. Records are subject to OEP inspection. In the event of legal action by a customer demanding restitution for alleged overpayment, such records may be subject to court review.

(7) If different prices were charged to different classes of customer (e.g., retail, wholesale, manufacturer, etc.) in the base period, the effective ceiling price is determined for each such class of customers separately. Furthermore, if different quantity discounts were granted to different classes of customers during the base period, each quantity discount group is to be treated as having a separate ceiling price.

For each distinct set of transactions (quantity discount groups within classes), list the number of units shipped during the base period in order to determine the price at which the shipments accounted for 10 percent of the units shipped. The price charged for the lowest priced shipment in this top 10-percent group is the ceiling price.

SAMPLE CALCULATION OF CEILING PRICES

EXAMPLE NO. 1

Class of Customer: Retailers.

	No. of units	Per cent of total	Price
Highest price sales.....	200	6.7	\$12.00
Next highest price sales.....	1,800	60.0	11.80
Next highest price sales.....	1,000	33.3	11.55
Total.....	3,000	100.0	

EXAMPLE NO. 2

Class of Customer: Wholesalers:

	No. of units	Per cent of total	Price
Highest price sales.....	1,000	12.5	\$9.50
Next highest price sales.....	7,000	87.5	9.25
Total.....	8,000	100.0	

NOTE: If different quantity discounts are offered within each class of customer, a separate ceiling would be calculated for each quantity-discount grouping within the class.

¹ Ceiling:

(8) State and local tax rates are not frozen by the program. If a State or local government should increase local or State taxes, i.e., property or business taxes, merchants and other commercial businesses may not pass on to consumers the amount of the tax increase. However, where there has been an increase in surcharges or other sales or excise taxes which are direct taxes on commodities or services, the new ceiling prices for such commodities or services are equal to the ceiling prices established during the applicable base period, plus those additional surcharges or taxes.

(9) The Cost of Living Council provides the following additional guidance:

(a) At each place of sale, sellers must maintain lists of ceiling prices for all goods or services offered for sale. Upon specific request, sellers are required to permit prompt public inspection of a ceiling price from the lists on an item-by-item basis.

(b) If a customer is not satisfied with the ceiling price provided by the seller for a given product or service, the customer should file a complaint with the local office of the Internal Revenue Service.

(c) When customers question ceiling prices, sellers are encouraged, but not required, to reveal their supporting records (i.e., records of transactions from which ceiling prices are calculated). Sellers are required, however, to reveal all lists and supporting records to Federal employees responsible for investigating complaints.

(10) The lists of ceiling prices from which the seller is required to provide information to the public must be available at the place of sale on or before November 1, 1971. The ceiling price list may be a single master list for the entire establishment or, alternatively, separate lists of ceiling prices may be maintained in each section or department of the establishment.

Until the lists are prepared, the seller may utilize the following interim procedure:

(a) There shall be posted on each floor of the seller's establishment at least one sign (minimum of 30 inches by 40 inches), as specified below, announcing availability of ceiling price information:

CEILING PRICE INFORMATION

Information regarding the lawful ceiling price for any item sold by this store may be obtained by filling in a Ceiling Price Information Request Form available at (specify location) and by handing it to (fill in). You will receive a speedy answer by mail.

(b) There shall be made available in at least one location on each selling floor, Ceiling Price Information Request Forms, as specified below:

CEILING PRICE INFORMATION REQUEST FORM

Please furnish me with your ceiling price for the following item sold in your store.

Item _____
(Describe)
Retail Price _____
Style No. _____
Dept. Where Sold _____
Name _____
Address _____
Zip _____

(c) The seller shall respond to all such written requests for ceiling price information within 48 hours using a letter, in substance similar to the one specified below, and signed by the owner or by an officer of the company:

TO: (Name, Address, City, Zip)

Dear _____:
In reply to your request, we are pleased to inform you that our ceiling price for _____

is \$ _____
Sincerely,

(Owner or Company Officer)

403. *Specific guidelines.* (1) Specialized items produced to buyers' specifications are manufactured on an annual contract determined by competitive bids. The invitation for bids calls for shipments over a period of 3 months, with only the first month falling in the freeze period. The price is frozen at the base period level.

(2) The freeze applies to prices of advance sale tickets for sporting events occurring during the freeze.

(3) A company manufactured a product in 1968 and the product was sold at a given price. The product has not been sold since then. The company now wishes to resume production of this product. It holds the patent on the product and nothing similar is sold on the market. The article must be priced at the level at which substantial transactions took place in the past. If the company had nothing comparable on the market during the base period, the price for this article is the 1968 price.

(4) A trade association is planning to broaden its services to its membership. To do this, it must obtain additional funds through a dues increase. The association is not allowed to increase its dues to cover the increased services. Accordingly, dues as such cannot be increased. However, when the scope of services provided to members increases, the members may be assessed a pro rata share of the increased cost of the expanded services on a penny-for-penny basis.

(5) For Cost of Living Council purposes increases in school tuition and room and board have been treated as complete transactions if payments of any form were received from students after announcement of increased rates. This treatment of the student-school relationship is unique to tuition and room and board transactions and does not apply to any other form of transactions.

Schools generally offer a package of services (tuition, room and board) and where all three are offered as a combined package, and increases in rates were announced prior to August 15 and payments were received prior to August 15 but after the increases were announced, the increase may remain in effect for the school year. The substantial transaction test may be met by one deposit or payment if it represented at least 10 percent of the transactions made during the base period.

However, where tuition, room and board are offered as separate services

the following applies: If increases for each were announced prior to August 15, and deposits received for each after announcement of the increase but prior to August 15, then each of the service rate increases may remain in effect. If only one of the services (say tuition) met this criteria, then only the increased rates for that service can be charged. The interpretation for room charges applies only to university-owned or controlled housing operated exclusively for student housing in the manner of dormitories (as evidenced by school-year, semester, or quarter lump-sum rates covering room). University-owned or operated apartments, houses, trailers or other accommodations in which separate units are leased or rented in the manner of commercially owned rental units (e.g., monthly rental payments, annual leases or month-to-month tenancies) are subject to the regulations on rental housing, and rental rates are determined on an apartment-by-apartment basis according to the rate prevailing in the base period, just as in the case of rental property generally.

The use of prior announcement and payment to show completion of transactions results from the unique arrangement schools have with their enrolled students. Although the level of service performed by schools varies with the school year, certain year-round services are available to enrolled students, i.e., access to research facilities (libraries), administrative support, student guidance activities, etc.

(6) Meatcutters who priced and sold meat on an individual basis during the base period may not price those same types of cuts on a carcass basis during the freeze. The ceiling price for individual cuts can be no higher than that during the base period.

Marketers who priced and sold on a carcass basis during the base period may continue to sell on a carcass basis during the freeze.

Sales may be made at the highest price at which a substantial volume of actual transactions was made during the base period.

(7) A professional association composed of salaried members (teachers) is authorized to maintain a system of annual dues based on a percentage of average salaries of members, even when the effect of the system is to increase the dollar dues of the members as average salaries increase during the base period and during the freeze period. The established formula may continue to be employed. In many other instances, formulas in existence in the base period have been allowed to continue operating during the freeze.

(8) Where a publisher attains a new higher circulation during the freeze than he had during the base period, and application of his preexisting pricing formula would result in a charge to advertisers (e.g., price per page) which is higher than that charged to any advertiser during the base period, this higher charge will be allowed. If circulation in-

creases during the freeze, prices may be adjusted according to an established pricing formula (e.g., price per thousand paid circulation) in effect before the freeze.

(9) Retail outlets may discontinue trading stamps (S&H, Top Value, Blue Chip, Gold Bond, etc.) if they pass on the value of the stamps to their customers in the form of lower prices on their merchandise. Merchants can lower their prices in either of two ways. They can lower the prices of everything they sell by the value of the stamps, or, at cash registers, they can deduct the value of the stamps for the prices of those items for which trading stamps would have been given. The value of the stamps is the market value of the merchandise for which they may be exchanged, and not the cost to the retailer.

Retailers choosing to deduct the value of stamps at cash registers on items for which they would have issued stamps, must post in a prominent place in each retail outlet at least one sign (minimum of 30" x 40"), plus a readily visible sign at each cash register, advising customers of the discontinuance of trading stamps and the reduction in total cost to the purchaser of the merchandise they are buying.

(10) The only trading prices for commodity futures subject to the freeze are those futures contracts that would require physical shipment during the freeze.

Settlement under commodity futures contracts maturing during the freeze period may not be made at prices in excess of the ceiling price for each such commodity during the base period. The ceiling price under mature commodity futures contracts may be increased or decreased by adjustments (penalties and premiums) pursuant to applicable requirements of each commodity exchange for different destinations, variations in grade of the commodity, and prepared charges, other than carrying charges. Such adjustments may not be larger than those of the base period and must be established practice for the particular exchange.

(11) Where student housing is owned or operated by a university-owned housing authority or other university-owned entity, it shall be considered "university-controlled." Other housing facilities are considered to be "university-controlled" only when all of the following criteria are met:

(a) There is a contract with the university, whereby a facility is provided and/or operated under conditions agreed to by the university.

(b) There is a stipulation in the contract that the facility is operated exclusively for students of the university.

(c) The university approves the rates charged the students, and receives the payments made pursuant to these rates.

(12) If a team which has overcharged customers in contravention of the freeze prefers to offer patrons tickets to future games or other forms of compensation in lieu of a cash refund, it must still offer at the same time the option of a cash

refund when the other forms of compensation are unsatisfactory to the patron.

(13) Increased literary and artistic royalties may be paid during the freeze when such an increase is a part of the contract providing for payment thereof, but only if the higher percentage or contractual rate was specified in a contract agreed upon prior to the freeze.

404. *Prices on imports.* (1) An importer or distributor of imported goods may avoid showing the import surcharge on sales tickets or invoices if he absorbs the entire amount of the surcharge.

(2) *Surcharge:* An importer, or distributor of imported goods, must show on the sales ticket or invoice, in dollars and cents, the surcharge passed on to the purchaser. If the importer or distributor elects to pass on only a portion of the surcharge, he is still required to indicate penny for penny the exact amount passed on.

(3) As explained in paragraph 404(2) in OEP Economic Stabilization Circular No. 101, an importer may pass on a price increase of an imported product to the purchaser so long as the product is neither physically transformed by the seller nor becomes a component of another product. However, in the case of goods produced in the United States which are sent abroad and subsequently reenter the United States without substantial modification (i.e., 25 percent or greater increase in value), no change in ceiling price is permitted.

(4) *Fluctuations in international exchange rates:* As previously ruled an import price increase due to a change in the world market price may be passed on so long as the product is neither physically transformed by the seller nor incorporated as a component of another product.

An import price increase due to appreciation in the value of a foreign currency in relation to the dollar is treated in exactly the same way as an increase arising from changes in world market prices.

These provisions apply only to import transactions that took place after August 15. They do not apply to goods in inventory on that date.

Sellers of imported goods who pass on price increases to their customers must maintain adequate records to document the increases and must, on request, provide this information to buyers. Such increases may be passed on only cent for cent, and markups may not be increased.

Note: See paragraph 404(6) of OEP Economic Stabilization Circular No. 101.

Note: Changes in prices arising from appreciation in the value of a foreign currency in relation to the dollar and changes instituted by foreign suppliers are treated differently from the supplemental duty (the import surcharge) in two respects:

(a) The surcharge may be passed on to the final customer even when the import is transformed or incorporated into another product.

(b) Sellers who pass on the surcharge must show the amount of the surcharge on the sales ticket or invoice, with the exception that retailers may elect to follow an alternate procedure.

RULES AND REGULATIONS

(5) Indication of import surcharge passed on to the consumer: As previously stated, sellers who do not absorb the total amount of surcharge on imported goods must show on sales tickets or invoices the exact cent for cent amount that is passed on to the consumer. As an alternative, firms selling at retail to final consumers will be in compliance if all of the following conditions are met:

(a) Mark the price tag, or use a distinctive colored price tag, to indicate that the price of the item includes a portion or all of the import surcharge (exhibit A).

(b) Post in a prominent place in the store at least one sign (minimum of 30 by 40 inches), plus a readily visible sign at each cash register explaining the marking procedure and stating that the amount of the duty passed on to the consumer is available on request (exhibit B).

(c) When the amount of the surcharge included in the price is not immediately available in the store, a form letter should be provided upon request informing the customer of the amount of supplemental duty (exhibit C).

The import surcharge may be passed through even if the import is transformed or incorporated into another product.

EXHIBIT A

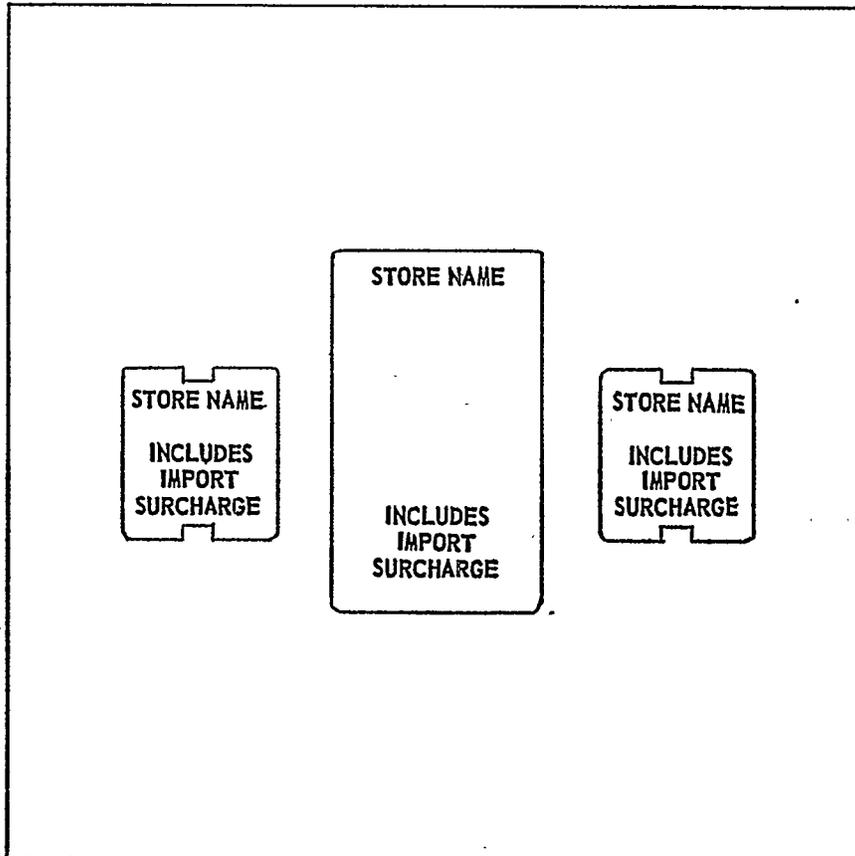


EXHIBIT B

SUGGESTED WORDING FOR IN-STORE
AND CASH REGISTER SIGNS

ALL MERCHANDISE WITH MARKED (OR SPECIFIED COLOR) PRICE TAG HAS BEEN IMPORTED SINCE AUGUST 15, 1971, AND INCLUDES AN IMPORT SURCHARGE ADDED TO THE PRICE IN ACCORDANCE WITH THE ECONOMIC STABILIZATION PROGRAM. THE EXACT AMOUNT OF SURCHARGE INCLUDED IN THE PRICE WILL BE MADE AVAILABLE OR MAILED TO YOU ON REQUEST.

EXHIBIT C

STORE NAME
ADDRESS
CITY, STATE

Dear Customer:

AN IMPORT SURCHARGE WAS INCLUDED IN THE PRICE OF THE ITEM YOU PURCHASED IN OUR STORE, IN ACCORDANCE WITH THE ECONOMIC STABILIZATION PROGRAM.

For the exact amount of the import surcharge included, please affix, in the space provided below, the price ticket or label that came with the item. Then fill in your name and address at the bottom and either give the form to the clerk or mail it to us. We will return it to you showing the exact amount of the surcharge included in the price. Thank you for your patronage of our store. We hope you will allow us to serve you again soon.

AFFIX PRICE TICKET HERE	THE EXACT AMOUNT OF IMPORT SURCHARGE INCLUDED IN THE PRICE TICKET AT LEFT IS \$ _____
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IMPORTANT NOTE: A supplemental duty (import surcharge) was levied on this imported item by the U.S. Government. A portion of the surcharge may have been absorbed by intermediate distributors between import and sale, and thus would not be included in the price you paid for this item.

PLEASE PRINT YOUR NAME _____
ADDRESS _____
CITY, STATE _____ ZIP _____

(6) Where there is a fixed price contract between an importer and his purchaser, the importer may add the import surcharge to his price only if the purchaser agrees.

405. *Sale of real estate.* (1) A home-builder is building under FHA and VA programs. The lumber, steel, and nails used in his houses are imported and, therefore, subject to the 10 percent surcharge. When the 10 percent surcharge is added to the prices of his houses, it increases the price of the house above the FHA-VA ceilings. The builder may pass the 10 percent surcharge to the purchaser. The ceiling price is governed by stated economic stabilization program criteria. However, this does not change the VA or FHA maximum loan value, which is computed in accordance with the criteria and regulations of those agencies.

406. *Government-regulated industries.* (1) Where the Civil Aeronautics Board has required that all discount rates in

effect during the base period be continued for the duration of the freeze, an airline, meeting all requirements of the seasonality rule, may not eliminate the discounts in the face of the order of the CAB: *Provided*, That the order of the CAB is within its own statutory authority. The freeze does not forbid reductions in prices nor does it require pricing at the permissible ceiling level. In the exercise of their own statutory authorities, it is expected that regulatory agencies will contribute to the national effort involved in the freeze program.

(2) If a regulatory agency authorizes a public utility to discontinue or reduce service, the freeze does not preclude that discontinuance or reduction of service. However, a reduction in service must be matched by an appropriate reduction of the ceiling price.

(3) If a general utility rate increase had been approved prior to August 14, 1971, but was to become effective upon

the expiration of certain contracts after August 14, the increase cannot go into effect upon the expiration of such contracts. The ceiling price is fixed at that price at which there were substantial transactions prior to the freeze.

(4) If a pipeline company is to sustain a substantial dollar increase in purchased gas costs from a Canadian supplier during the "freeze" period, the company is not expected to absorb this increase with no relief. This increased cost for the gas may be passed on, cent for cent, so long as the gas is not transformed or incorporated in another product. If the gas is burned to generate power, it is considered transformed and the higher price for the gas may not be converted into an increase in the price for electric power.

(5) Public utilities that delivered service prior to the freeze under a set established formula can collect for the delivered services under that formula even though delayed billing practices result

in bills not being sent out until September. The effective price under which it was shipped during the base period sets the ceiling price. The date of billing is not the controlling factor.

(6) Public utility tariff changes which may result in increased charges (e.g., an increase in penalty for unauthorized overruns) will not be allowed to become effective during the period of the freeze. The answer is the same even though the penalty may not have been waived in the past.

407. *Commodities and services.* (1) A seller who has had a "promotional allowance" plan in effect during the base period, under the terms of which the seller's customers were compensated for the performance of promotional services or the provision of promotional facilities, may permit the "promotional allowance" plan to terminate during the freeze period if (a) the plan in effect during the base period was used to compensate the seller's customers for services actually rendered or facilities actually provided, and (b) the reduction in the allowance equates with the value of the reduction in services or facility usage. If such services or facilities were not provided, or if the compensation paid was excessive in relation to the value of the services or facilities, then an allowance is considered a price discount and subject to the rules governing price discounts.

(2) In the determination of premiums based on experience-rating formulas, those factors in the formulas that reflect anticipated cost or price increases beyond the base period (e.g., inflation trend factors) may not be applied. Factors that reflect experience on actual cost (e.g., average cost per claim, insurance company expenses, daily hospital reimbursement levels) may be entered into the formulas only to the extent that the experience would have been entered into the formula had the calculation been made during the base period. However, factors that reflect changed conditions of risk (e.g., the age-sex distribution of groups, number of claims) may be applied normally. New experience-rating formulas that would result in an increased premium may not be introduced during the freeze period.

(3) Owners of cooperative and condominium apartments are treated like homeowners. Accordingly, the monthly charges they pay for general maintenance and other costs are not rent and, therefore, are not covered by the rent freeze. If, for example, the owners wish to increase the quantity of services they receive (e.g., an additional doorman, an added trash collection day), they may pay increased charges reflecting the cost of added services. However, increases in such charges to condominium or cooperative apartment owners may not be used to circumvent the general regulations freezing wages and prices.

The fee for managing a cooperative or condominium apartment is subject to the freeze. However, if there is a significant increase in the services of the managing agent, a corresponding fee increase

would be permissible under Executive Order 11615.

(4) An earlier ruling by the CLC on commodity futures established that commodity futures, with the exception of raw agricultural products, are covered by the freeze. The ceiling price for commodity futures that mature during the period of the freeze is based on "spot" prices during the 30-day period prior to August 15. Where spot prices are not available, the ceiling would be the price at which a substantial volume of the most recent futures contract was traded during the base period.

Additional guidelines to be followed on commodity futures are listed below:

(a) There is to be one ceiling price for each commodity on each exchange; e.g., sugar at Los Angeles may have a ceiling price different from that of sugar at New York City.

(b) The exchange on which the commodity is traded computes the ceiling price.

(c) An exchange, in order to determine spot prices during the 30-day period prior to August 15, must obtain such prices from the parties to the spot transactions.

(d) The exchange need not obtain all of the trades to insure a fully representative sample of the trading that occurred.

(e) In the event an exchange cannot obtain information on any spot transaction in which the terms coincide with par delivery on the futures contract, it must then obtain information on the prices of transactions which, by the application of usual trade differentials, can be converted to the price of the commodity deliverable at par on the futures contract.

(f) Carrying charges are not to be added to the spot price in determining the ceiling price.

(g) If not enough spot prices are available, the exchange is to determine from its records or from the records of its members the prices at which the top 10 percent of the transactions were made in the most recent futures traded during the base period. If then sets the ceiling price at the lowest price of the top 10 percent of the transactions.

(h) The rule relative to the lowest price of the top 10 percent of the transactions also applies if spot prices are used.

(i) That May 25, 1970, price will be the ceiling price if it is higher than the price computed on the basis of the 30-day period prior to August 15, 1971.

(j) That May 25, 1970, price is computed as either (i) the average (mean) price at which transactions were made on that day or (ii), if no transactions took place on that day, then it is the average (mean) price for the nearest day prior to May 25, 1970.

(k) The August future open during the 30-day period prior to August 15, 1971, would be the price used in computing the ceiling price.

(l) If there were no August future open during the 30-day period prior to August 15, 1971, the July future would be used to compute the ceiling price. If

there were no July future open, the nearest future in which there was trading would be used.

(m) A commodity futures contract calling for delivery during the freeze at a price above the ceiling price may not be delivered at the higher price. The seller has the option of delivering at the ceiling price, or not delivering at all. If delivery is made, the buyer is obligated to pay only the ceiling price.

(5) Dues are a fee for service, and as such are frozen under Executive Order No. 11615 and OEP Economic Stabilization Regulation No. 1, as amended. Examples are dues for membership in professional associations, trade associations, unions, and country clubs.

(6) Prices charged for advertising (publishing, television, and radio, etc.) and prices of newspapers, books, magazines, etc., are subject to the freeze.

(7) Schoolbus contractors, like all other sellers of services, are subject to the freeze. They may not perform their services during the freeze at prices in excess of base period ceilings. Contracts bid for or negotiated prior to August 15 calling for student busing after that date at prices in excess of price levels received for substantial transactions in the 30 days ending August 14 may not be paid at the increased rate during the period of the freeze.

School systems may not pay bus contractors in excess of ceiling prices. Bus contractor ceilings are to be determined on the basis of the highest price at or above which substantial transactions occurred for that bus contractor's class of customers equating with school busing, in the 30 days ending August 14. If there were no transactions for that class of customer in the 30-day period ending August 15, the base period will be the nearest preceding 30-day period in which a transaction did occur. The nearest preceding "30-day period" is defined as a 30-day block of time prior to July 16. Hence, moving back from July 16, the nearest 30-day period would be June 16-July 15, and preceding that, May 17-June 15, and so on. As provided in the Economic Stabilization Act of 1970, the bus contractor's ceiling price is not lower than his prevailing price on May 25, 1970.

Although bus contractors may have performed work and expended resources preparatory to actual busing of students, the only service that qualifies for substantial transactions determination purposes is the actual busing of students. This busing may or may not have been done under long-term contract. As already stated, the major factor is the rate charged for the performance of busing service to that class of customer in the above defined base period. Although bus contract ceilings may be increased for added services, they may not be increased solely for the purpose of compensating bus contractors for added labor costs, taxes, costs involved in complying with added health or safety requirements, etc.

(8) The Council previously stated that State and local tax rates are not subject to the freeze. The rates excluded from the freeze are for general-purpose taxes such as income, sales, and real estate levies.

Fees, charges and tolls are "prices" for particular services or for the use of specific facilities, and are therefore frozen. Among prohibited increases are those in water and gas charges or fees and road and bridge tolls.

No matter what a State or local government may call a fee or charge for a specific public service, if that government is imposing a user charge (e.g., "sewer tax"), the charge is covered by the freeze.

(9) If charges for goods or services were not made during the base period, then charges may not be instituted during the freeze for the same goods or services.

(10) An assessment mutual insurance company may levy a retrospective assessment on its member policyholders to the extent permitted by the insurance contract. No portion of an assessment may include a factor reflecting cost increases incurred by the company subsequent to August 15, 1971.

(11) A reduction in frequency of schedule is a reduction in the quality of service provided by a transportation company. Elimination of a route is also considered to be a reduction in the quality of service, in that it inconveniences riders of connecting routes in the same transit system. Decreases in the quality of service may not be made without a corresponding reduction in fare unless the regulatory agency having jurisdiction in such matters states that the primary reason for the reduction in service is to adjust for a decrease in demand rather than an inadequate return on the transportation company's investment or other financial reasons.

409. *Exemptions.* (1) Just as with the exports of goods, the rates charged by U.S. firms for services furnished outside the United States to foreign customers are not subject to the freeze.

410. *Items not covered by freeze.* (1) Food stamps: The Food and Nutrition Service (U.S. Department of Agriculture) has announced new regulations for its food stamp program which will allow an increase in food stamp rations for most participants. In the lower ranges of eligibility, participants will receive more stamps this year; however, some participants in the upper eligibility ranges may qualify for fewer stamps. Any changes in the cost of food stamps resulting from this program revision are not violations of the freeze since the exchange of cash for food stamps is a welfare activity, rather than a market transaction.

(2) Mortgage points: The point system is a method of adjusting interest rates and, to some extent, of compensating the mortgage dealer. However, since the variation of points is principally a function of interest rate changes, points are not subject to the freeze. Nevertheless, in keeping with the spirit and intent

of the President's wage-price freeze, the level of those points should be no higher than that during the base period.

Note: Intra-corporate transaction prices are also not frozen. See par. 302(3) of this circular.

500. *Wage and salary guidelines.*

501. *General.* (1) No formal exemptions have been provided solely because of low income. However, the following provisions do afford substantial relief to persons of low income:

(a) Wages are not frozen below minimum wage standards of general application;

(b) Wages are not frozen where increases are necessary to eliminate unlawful discriminatory wage practices;

(c) There is no freeze on welfare payments; and

(d) There is no freeze on increases in coverage or benefits under Social Security.

502. *Specific.* (1) A labor contract contains a semiannual cost-of-living increase which was due prior to the freeze. However, the increase was delayed until the consumer price index was published. This increase can go into effect during the freeze. The increase was due and payable prior to the freeze and retroactive to that date. The employees were working at the increased rate prior to the freeze.

(2) Increases in the amount of paid vacation given to employees after they have completed a specified length of employment (e.g., increasing vacation from 2 to 3 weeks upon the completion of 10 years' service) may be credited to employee vacation accounts during the freeze. However, the increased vacation time may not be utilized during the period of the freeze.

(3) An employer who pays the entire cost of the group health insurance plan for his employees finds that by changing to a different insurer he may provide improved benefits for his employees at either no increase in premium or at a reduced premium cost to himself. The employer, during the freeze, may change to the new plan with improved benefits as long as he makes no additional contribution. Any savings realized, however, may not be passed along to the employees, since this would be an increase in real wages.

(4) Gold miners in Idaho are paid a special bonus every 2 weeks based on the price of gold. Such bonuses are not prohibited by the freeze. The miners can be paid on the same formula as that in existence during the base period.

(5) In States having statewide minimum wages scheduled to increase during the freeze, wages may be raised to meet the prescribed higher minimums. However, wages and salaries may not be raised to meet scheduled increases in State minimum levels for specific occupational groups.

(6) Retroactive wage increases for work performed prior to the freeze are permitted, provided that the parties can demonstrate that they did not change their position during negotiations in order to compensate for or absorb the impact of the freeze. This requires the

parties to produce evidence of past practice and the pattern of present negotiations. A procedure will be established by the CLC for resolving evidence. However, for work performed after August 15 the actual rate which was in effect during the base period is the ceiling wage for the freeze period.

For example, a contract is agreed to on September 1, effective July 1, increasing a wage rate from \$2.80 to \$3. For the period July 1 through August 15, the worker's wage is \$3; from August 16 through the duration of the freeze, \$2.80.

(7) A wage rate set prior to the freeze for a new or changed job may be increased and paid retroactively, provided an appeal was filed before August 15 under a formal appeals procedure.

If an appeal on a wage rate set prior to the freeze was made prior to August 15 under a formal appeals procedure, the rate for that job may be increased and paid retroactively.

(8) Private sector employers may grant Columbus Day, a Federal legal holiday, as a paid holiday, provided that:

(a) Such a provision is included in the labor contracts of the employer granting the holiday, or

(b) The granting of Federal legal holidays is an established practice, or

(c) The employer had announced the holiday prior to August 15.

(9) Attached hereto as Annex No. 1 is the text of a statement on the issue of Teachers Salaries.

(10) Because of the number of requests received for information on teachers salaries, the following additional comments are submitted, summarizing the previous rulings of the Cost of Living Council on this issue. The permissibility of salary increases for teachers during the wage-price freeze is determined by the criteria applicable to other wage and salary earners. Whether a teacher can receive a salary increase depends upon the facts and circumstances of the particular case. A teacher may receive pay at a new increased rate under the terms of the freeze only if the teacher was receiving or, in the special circumstances set forth below, could have received pay at the new rate prior to August 15. The date when a new pay rate went into effect or when a teacher signed a contract is not relevant in determining whether the higher salary level is applicable to the teacher. The determining factor is the point in time when the particular teacher could actually receive pay at the higher rate.

An individual teacher is entitled to a pay increase contracted for prior to August 15 if, but only if,

(a) He performed work for the increased pay rate prior to August 15, or

(b) He was entitled to receive immediate payment of wages or salary prior to August 15 at the increased rate, or

(c) In his contract signed prior to August 15, he had an option to receive pay on a 10-month basis rather than a 12-month basis and he elected the 10-month basis and had he elected the 12-month basis he would have actually received pay at the increased rate prior to August 15.

If the teacher performed work at the increased pay rate prior to August 15, he is entitled to the increased rate even though his first paycheck was received after August 15.

(d) If the teacher is eligible under the contract for a pay increase upon completion of additional educational courses, or upon receipt of a degree, this is considered to be a bona fide promotion and is not affected by the wage freeze.

(e) A teacher employed in the school system for the first time must qualify under the criteria set forth above in order to be paid at a new increased rate. (Published in OEP Economic Stabilization Circular No. 18.)

(11) The 1971 increase in steelworkers' wage rates that were in effect prior to August 15, 1971, cannot take effect in the case of (a) companies which traditionally adhere to the steel wage pattern and whose contracts expired prior to the freeze date, if a strike delayed the signing of a new agreement until after August 14, 1971, and (b) companies that traditionally adhere to the steel wage pattern if they have "lag dates" after the larger steel companies and their "lag dates" occurred after August 14, 1971.

(12) Employees are allowed to receive a percentage of the profits of a business as fixed by their employment contracts as compensation for services even if that amount exceeds the dollar amount paid in the year prior to the freeze if the compensation plan was established practice prior to the freeze. The employees may continue to receive compensation at the same rate relative to year-end profits as they received last year.

(13) Wage increases approved by the Construction Industry Stabilization Committee after August 15, 1971, may go into effect retroactively and continue to be paid throughout the freeze if (a) agreement had been reached prior to August 15 and (b) work was performed or wages accrued at the new rate prior to August 15.

This is, in substance, a recognition that the procedures established by the Government for construction stabilization have delayed wage increases that otherwise would have been placed in effect. However, this does not mean automatic approval of such agreements. All agreements will still be subject to the criteria contained in the President's Executive Order No. 11588 of March 29, 1971.

(14) No stock options issued by companies to their employees may be exercised unless the right to exercise those stock options expires during the freeze period. Nor, as previously ruled, can a new stock option be issued during the freeze.

(15) A construction worker is employed on a non-Federal project at X number of dollars per hour. The contractor shifts the worker from that project to a Federal project but he continues doing exactly the same work with exactly the same responsibilities. If the Davis-Bacon Act requires a higher rate of pay for that job on Federal contracts than he had been receiving, the worker's pay

must be increased. The rate he is paid attaches to the job in that locality. The wages applied to Federal contract activities are those wages established by determinations of prevailing wages in the locality during the base period. If no rates had been established in the base period for that locality, a determination can be made but it must be calculated on the base period ending August 14.

(16) Wages paid to workers transferred from a plant or office that has been closed to a different geographical location may be paid up to the ceiling that applies to the job at the new location. The freeze applies to the job, not to the worker.

(17) An employee, when returning from a leave of absence should be paid at the rate currently being paid for the job he is to occupy. The employee is in effect being rehired to fill a job for which there is an established rate if it were to be filled by a new employee.

(18) The wages received by a clergyman represent salary paid for the performance of a service. He is a salaried employee of his congregation, and his salary, along with his fringe benefits, are frozen. Contributions freely given to the individual clergyman by members of his congregation or other persons, however, are allowed because they have nothing to do with his basic compensation and are gifts.

(19) Employees paid on a piecework basis may not have their piece rates adjusted in any form to provide earnings in excess of those received during the base period. This is true even where a firm introduces an innovation that increases productivity.

(20) Compensation paid abroad in dollars to Americans working abroad for U.S. incorporated companies may be increased to reflect appreciation in a foreign currency in relation to the dollar. This applies also to foreign-based U.S. citizens who are employees of the U.S. Government and other organizations headquartered in the United States.

However, the compensation (including base salary, or any allowance, such as a hardship allowance) may not be increased beyond its foreign currency value before the suspension of the gold convertibility of the dollar.

(21) A nonunion contractor has traditionally paid prevailing union wage scales in the various localities in which he does business. Even in situations not covered by the Davis-Bacon Act, the contractor may pay the prevailing wages to new employees in an area where he is awarded a new contract, if those wages are higher than those he paid (for the same jobs) during the base period in another area. However, he must use his procedures established prior to the freeze for determining prevailing union wage rates in a new area. Further, he must not pay more than the union wage rates prevailing for that area during the base period.

(22) Instances have been reported of employees requesting, or even demanding that employers put sufficient funds to cover wage increases scheduled to

occur during the freeze into escrow accounts. Such action presupposes post-freeze retroactive pay increases covering the period of the freeze, and therefore directly violates the intent of the economic stabilization program, and the ruling of the Cost of Living Council in regard to retroactive pay increases.

(23) Changes may not be made in cost-of-living differential payments to U.S. employees stationed abroad to reflect changes in local cost-of-living indices. (However, see paragraph (20) of this section.)

(24) Changes in the hardship allowance granted to American citizens working overseas may not be granted during the freeze. The hardship allowance is frozen just as the base salary is frozen. (However, see paragraph (20) of this section.)

(25) Where a corporation adopted an incentive compensation plan early this year and allocated a percentage of the profits thereto but the bonus fund allocations to specific individuals were not approved until August 18 by the Board of Directors, the incentive compensation can be paid in December 1971, after the expiration of the freeze, only if a specific plan or formula for determining the amount of the compensation and the conditions determining who will get the compensation was adopted prior to the freeze.

(26) Military pay and benefit increases authorized by Public Law 92-129 may not be implemented during the freeze. Pay and benefit increases authorized under statutes enacted prior to Public Law 92-129 for personnel exempted under OEP Economic Stabilization Circular No. 101, paragraph 502(16), are not affected by this ruling and may be paid to exempted personnel.

503. *Promotions and increased training.* (1) The ruling on "probationary employees" applies to workers changing jobs within the same company. Ceilings go with the job, not the man. Pay raises may be granted to workers who change jobs within the same company and enter a probationary period in the new job if this probationary period is less than 90 days, and the practice was established prior to the freeze.

(2) Newly hired reporters progress from year to year at a higher rate of pay until they reach "journeyman" stage. If the conditions specified below apply to any occupation, including reporters, the employee is eligible for scheduled wage increases under the program. If these conditions do not exist, these increases are considered longevity increases which may not be granted. A bona fide apprentice or learners program must be demonstrated by the existence of a formal program of on-the-job or classroom training whereby the apprentice or learner assumes greater responsibilities or additional functions as he progresses through each step of the program. These must be established programs which were in existence prior to the freeze.

NOTE: This paragraph corrects paragraph 503(3) in OEP Economic Stabilization Circular No. 101.

(3) The following supplemental guidance is provided for clarification of wage increases permitted under apprentice programs, learner programs, probationary programs, longevity and merit increase programs, promotion programs, and wage progressions. A bona fide apprentice program is a recognized formal program of training for those occupations commonly known as skilled trades or crafts. To qualify for the granting of wage increases during the freeze period, the program must have been in operation prior to the freeze date, and:

(a) Be registered with the Bureau of Apprenticeship and Training of the U.S. Department of Labor or with a State apprenticeship agency recognized by that Bureau, or be contained in a collective bargaining agreement, or be a documented, established practice of the employer;

(b) Require a minimum of 2 years of on-the-job training and work experience and related instruction (in the classroom, by correspondence, or the equivalent) in the course of which the apprentice progressively acquires new skills and masters the application of those already learned, in accordance with a clearly defined program; and

(c) Provide specific wage progressions after specific intervals of time so that the apprentice reaches the journeyman rate at the conclusion of his apprenticeship.

(4) A bona fide learner program is one which must have been in operation prior to the freeze date, and:

(a) Can be documented as an established practice of the employer;

(b) Provides for a schedule of progression(s) to the base or "job rate" during the learning period;

(c) There is a recognizable difference in the level of output or the quality of the job performed by the learner at each step of his progression to the base or job rate; and

(d) Provides on-the-job and/or classroom training whereby the learner assumes greater responsibilities (such as a decrease in supervision or the addition of progressively more difficult duties) or additional functions as he progresses through the steps of the program until he meets the minimum requirements of the job for which he is being trained. Such minimum requirements must be documented, as noted in (a.) above.

(5) A probationary period is designed to give the employer time to observe the performance of the newly hired employee so that he may decide whether retention of the employee is desirable. For the probationary period, the employee is normally restricted from exercising some employee rights, e.g., the right to fringe benefits, or grievance procedures, etc. A probationary period may or may not be tied in with a bona fide apprentice or learner program. A wage increase may be granted during the freeze at the end of the probationary period which may not

exceed 3 months. If the period is longer than 3 months it is not to be considered probationary for the period beyond 3 months, and incremental increases are allowed only for the first 3 months.

(6) A longevity increase is an increase given primarily for length of service with the employer. A merit increase is given by the employer as a reward for satisfactory service after a review of the employee's service. Neither the longevity nor the merit increase is permissible during the freeze period. A periodic increase (e.g., routine incremental increase annually) is a type of longevity increase and is also not permissible during the freeze, even though such increases may recognize a gradual increase in skill and productivity.

(7) Promotions are distinguished from longevity and merit increases in that they are increases granted when an employee is promoted or transferred to a job with larger responsibilities and higher pay. To qualify for a bona fide promotion, the employee must perform the normal duties of the job to which he is promoted. These duties must involve greater knowledge, skills, and duties than those the employee previously performed. It does not follow that there is a promotion merely because the employee is expected to perform his present duties with more skill or less supervision. Slight or inconsequential changes in duties, such as an increase in the amount of the same type of work already being performed, would not constitute a bona fide promotion. Transfers to a newly created position, which includes greater responsibilities, are treated differently from normal promotions in that the wage or salary established for the new position must be based on the wage or salary for comparable positions within the same organization, or within similar nearby organizations.

The following promotions in the field of education are permissible under the above criteria:

(a) Increases to a new position, e.g., from teacher to principal;

(b) Increases from instructor to assistant professor and from assistant professor to associate professor, and so on; and

(c) Increases as a result of educational attainments such as when a teacher receives an advanced degree.

(8) Wage increases set forth in wage progression schedules are not permissible during the freeze period unless they qualify under the apprenticeship, learner, or probationary programs described above, or as a bona fide promotion.

504. *Fringe benefits.* (1) An employer may increase contributions to a pension fund during the freeze, if that increase is used to fund benefit increases that were effective or declared prior to August 15. This is true regardless of when increased benefits are to go into effect. Employers may not increase pension contributions to finance benefit increases announced during the freeze.

(2) Employers may pay increased benefits scheduled to go into effect during the freeze to all retired employees eligible to receive the increase, including employees who retire during the freeze. However, after August 15, employers may not make new benefits increases to go into effect during the freeze.

(3) Fringe benefits cannot be increased during the freeze. However, some benefit programs, according to established practice, require that an employee exercise the right to join a program or to increase his benefits at a single specified time during the year or lose the opportunity to do so for at least a year. In such an instance, the employee may exercise his right even though the specified enrollment time falls within the freeze period.

(4) A church which has not previously offered social security coverage wishes to initiate such coverage. It is permitted to do so.

Social security is optional for church organizations. It is considered a problem area since it has both insurance and pension benefits and thus falls into both categories. It calls for both employer and employee contributions, and offers a long-term federally sanctioned benefit with clear guidelines. In addition, it is analogous to a pension benefit, and as such would not be subject to the freeze.

(5) Given a valid premium increase, an employer can pay an increased weekly premium on the same basis that he shared costs prior to August 15, as long as there has been no change in the formula for computing the employer's contribution.

(6) Employees retiring during the freeze shall not be prejudiced by the occurrence of the freeze. For purposes of computation of pension benefits for employees retiring during the freeze, the employee will be treated as though the freeze had not occurred.

For example, a retiree who would have been eligible for increased pension benefits after 26 years of service may receive any increased increment upon retirement, even if the completion of 25 years employment occurs after August 15. Any additional increment must not, however, exceed increments given prior to August 15 for the same amount of service, unless an increase in benefits was announced before August 15.

(7) If an established plan was in existence before the freeze to provide education to dependents of American employees working overseas, the employer can continue to do so even if the cost of education increases. Education was provided prior to the freeze; therefore, the freeze does not prohibit continuation of this policy. However, the quality of the education cannot be increased if it results in higher costs to the employer.

(8) In a firm where new employees are informed that after they complete 1 year's service they are entitled to 2 weeks' vacation with pay, this 1-year requirement is being met, in many cases, during the freeze period. These employees may not receive 2 weeks' vacation during the freeze period since this is an increase in

fringe benefits and is not permissible during the freeze period.

(9) Employment time during the freeze counts toward receiving future benefits (e.g., fringe benefits and longevity) which will be received after the freeze period. This would not constitute an increase in fringe benefits during the freeze period.

(10) Increases in all types of insurance coverage as a fringe benefit offered by the employer which would involve increased costs to the employer are frozen since this is an increase in compensation to the employee. Subject to phase II actions, a pension plan or profit sharing plan may be adopted during the freeze if the benefit to the employee will occur after the freeze period.

An employer may increase contributions to an insurance program during the freeze if that increase is used to pay for benefit increases that were effective prior to August 15. Such increases can be made as long as there has been no change in the formula used during the base period for computing the employer's contribution. Employers may not increase insurance contributions to finance benefit increases announced during the freeze.

(11) A company operates a thrift incentive plan for its employees in which payroll deductions are channeled into a savings account for the employee and, if no withdrawals are made, the company makes a contribution to the account at the end of the year. Employees do not become eligible for this program until after 3 years' service. (Employees are not limited—e.g., to once a year—as to when they may begin the plan.) Employees may not enter such a plan during the freeze since this is equivalent to receiving a longevity wage increase.

(12) Where employees receive hospitalization insurance that differentiates between single and married persons (in favor of the latter), an employee who marries during the freeze nevertheless thus becomes eligible for the increased benefits.

(13) Employees are eligible upon reaching a certain age to qualify for a group life insurance plan for which they pay the entire cost, no subsidy from the employer being involved. Employees may join such a plan upon reaching the appropriate age even during wage-price freeze. This is permitted since there is no employer contribution.

600. Rent guidelines.

601. *General.* (1) Section 2(c) of Economic Stabilization Regulation No. 1 contains the general cover-all statement: "No person shall offer, demand, or receive any rent higher than the maximum rent prevailing for the same or comparable property for a substantial number of transactions during the base period." The section 2(c) "comparable property" test should only be applied to newly constructed housing and to existing property which has never been rented before.

For existing, previously rented property, rents cannot be increased over the level charged for the same property during the base period. Section 3(b) is a detailed statement of the policy for previously rented property: "Rents. The

ceiling rent for commercial property, housing accommodations, hotels, motels, roominghouses, farms, and other establishments, together with all privileges, services, furnishings, furniture, equipment, facilities, improvements, and any other privileges connected with the use thereof shall be no greater than the highest rent charged for the same property during the base period. If the property was not rented during the base period, the ceiling price shall be no higher than the highest rent charged during the nearest preceding 30-day period prior to the base period. If the property was never previously rented, the ceiling rent shall be no higher than the ceiling rent charged for similar or comparable property in the locality or area."

602. *Specific.* (1) Landlords may offer new tenants, who will operate businesses different from those of previous tenants, leases using percentage-of-sales or other rent formulas applied in contracts for comparable tenants and properties in the area during the base period. Rentals to different businesses are "new users" of property, and the rents are treated as "prices" for "new products" (i.e., the product or service is new to the seller, but not to the market).

700. Record keeping

701. *General.* (1) In order to facilitate access to price records of sellers, the seller must maintain and have available a list of his ceiling prices for inspection by the customer. If the customer questions the ceiling price, he may ask the seller to produce his supporting records. If the seller is unwilling to produce these records, the customer should provide evidence of the alleged violation to the local office of the Internal Revenue Service and file a complaint. The Internal Revenue Service will then investigate the complaint.

800. *Applicability.* (1) The jurisdiction of the freeze is not limited geographically to the United States, District of Columbia, and Puerto Rico. For certain purposes the freeze extends to American citizens and corporations wherever they may be in accordance with general principles of extra territorial application of United States law to its citizens and corporations.

The following specific guidelines apply:

(a) The freeze is not applicable to U.S. citizen employees of a foreign company associated with an American corporation. It does not apply to foreign corporations anywhere outside the United States and its customs territories.

(b) The freeze does not apply to foreign nationals working abroad for American corporations. It was not meant to apply to citizens of another foreign country working outside American boundaries.

(c) The freeze applies to foreign nationals working in America for American corporations.

(d) The freeze applies to foreign companies doing business in the U.S. Such foreign companies and their subsidiaries, incorporated in this country, must abide by U.S. laws.

(e) The freeze does not apply to foreign embassy employees. Under international courtesy and law, foreign embassies are not controlled by host country laws of this type.

(f) The freeze applies to U.S. citizens assigned abroad by nonprofit organizations in the United States. It applies in the same way as it applies to U.S. citizens working abroad for American companies.

(2) Notwithstanding the issuance of Cost of Living Council Orders Nos. 3 and 4 October 15, 1971, the Council hereby declares that Cost of Living Council Order No. 1 is, and shall remain, in full force and effect under the provisions of section 13 of Executive Order 11627 of October 15, 1971, until such time as the Council shall expressly otherwise order but in no event beyond November 13, except for actions taken to complete the responsibilities assigned under Executive Order 11615 and Council Order No. 1. The Cost of Living Council has directed that the Director of the Office of Emergency Preparedness shall cause notice of this declaration to be published in the FEDERAL REGISTER as a part of that agency's Economic Stabilization Circular series.

1000. *Information.* (1) Except for simple requests for information which are handled by telephone without written record, all requests for examinations, interpretations or changes in the Council's rulings or procedures are required to be made in writing.

(2) Basic decisions of the Cost of Living Council are initially published in the form of questions and answers as well as declarative statements. These decisions are subsequently published in the FEDERAL REGISTER as Economic Stabilization Regulations and Circulars. As required, interpretations of such regulations and circulars as they apply to specific fact situations are made by the Office of Emergency Preparedness in accordance with established procedures. Copies of such interpretations are made available to the parties concerned.

(3) The procedures of the Cost of Living Council for handling exemptions and other requests provide for a careful analysis by the Office of Emergency Preparedness, with field investigation by the Internal Revenue Service where required. Cases not essentially duplicative of earlier cases are reviewed by the National Office of Emergency Preparedness and the Cost of Living Council staff. When appropriate, exemption requests are referred to the Council for decision. A request for reconsideration of a decision on the basis of additional information may be submitted through the same organization channels as the initial request and will receive prompt consideration.

(4) Public inquiries on wage-price freeze matters should be directed to the nearest office of the Internal Revenue Service or the Agricultural Stabilization and Conservation Service. Reports of alleged violations should be made to the nearest IRS office. Requests for exemptions should be sent, in writing, to

the appropriate OEP regional office as indicated below.

Region	Address, telephone	States served
Boston (1)	JFK Federal Bldg., Room 2003 L, Boston, Mass. 02203.	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.
New York City (2)	26 Federal Plaza, Room 1355, New York, N.Y. 10007.	New Jersey, New York, Puerto Rico, Virgin Islands.
Philadelphia (3)	Industrial Valley Bank Bldg., Suite 1600, 1700 Market St., Philadelphia, PA 19103.	Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia.
Atlanta (4)	Continental Insurance Bldg., Suites 514, 518, 520, 161 Peachtree St. N.E., Atlanta, GA 30303.	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee.
Chicago (5)	33 East Congress Parkway, Room 410, Chicago, IL 60605.	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.
Dallas (6)	Federal Bldg., Room 4C-38, 1100 Commerce St., Dallas, TX 75202.	Arkansas, Louisiana, Oklahoma, New Mexico, Texas.
Kansas City (7)	Federal Office Bldg., Room 2902, 911 Walnut St., Kansas City, MO 64106.	Iowa, Kansas, Missouri, Nebraska.
Denver (8)	7200 West Alameda Ave., Denver, CO 80226.	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.
San Francisco (9)	New Federal Office Bldg., 450 Golden Gate Ave., San Francisco, CA 94102.	Arizona, California, Hawaii, Nevada, American Samoa, Guam.
Seattle (10)	Federal Office Bldg., Room 1095, 909 First Ave., Seattle, WA 98104.	Alaska, Idaho, Oregon, Washington.

1001. *Effective date.* This Circular, unless modified, superseded, or revoked, is effective on the date of publication for a period terminating at midnight of November 13, 1971.

Dated: October 20, 1971.

G. A. LINCOLN,
Director,
Office of Emergency Preparedness.

ANNEX NO. I—TEACHERS SALARIES

Eligibility. The previous guidance is contained in annex 2 of OEP ES No. 5, which reads as follows:

In the case of school systems that have negotiated a systemwide contract which is applicable to all teachers in the system and which makes all teachers eligible to receive payments prior to August 15, all teachers may receive these increased payments if any one teacher either performed work or was accruing pay prior to August 15.

The reference to "any one teacher" apparently has been misinterpreted to apply regardless of the individual eligibility of other teachers in the school system even in the absence of a systemwide contract. The CLO statement of September 3 carefully stresses that the eligibility of each individual teacher governs. This statement, therefore, is consistent with the above which refers to systemwide contracts, which, by their terms, make all teachers within a system eligible to receive payment prior to August 15. Such a systemwide contract would be a contractual agreement which covers all teachers in the

system, includes uniform criteria for pay eligibility, and allows all to draw pay on 12-month basis, if they choose. If, in fact, such a contract makes all teachers eligible to accrue pay prior to August 15, it is irrelevant whether "any one teacher" performed work or accrued pay prior to August 15. If the employment arrangement requires that a teacher begin work to be eligible for pay, then the date of beginning work is the date the teacher is eligible to accrue pay.

Thus, the eligibility of any single teacher does not per se qualify everyone else. Each teacher's eligibility is determined individually on the basis of his or her terms of employment.

If a teacher had the option to take a 12-month contract under which he or she would have been eligible to accrue salary prior to August 15, but instead chose a 10-month contract, he or she is considered eligible.

Definition of "accrual." The CLO statement of September 3 contains the following provisions:

The eligibility of teachers for pay increases is determined by the date when the teacher became eligible to accrue wages at a higher rate.

To be eligible means that the teacher in fact accrued earnings (at the new rate) which covered a period prior to August 15, although he or she may not have actually performed work during that period.

A common definition of accrue: "To come into existence as a legally enforceable claim." Under this definition a teacher accrues for specific period prior to August 15 once that teacher has a legal right to payment and the school district has a legal obligation to pay. Adoption of the foregoing definition gives the word "accrual" a precise legal definition.

An expanded operational definition is: Accrual of earnings is determined by the existence of a legal right (on the part of the teacher) and obligation (on the part of the employer) to pay a salary covering a period prior to August 15, 1971 (regardless of when actual payment is made).

The crediting of a teacher's account on the books of the employer, clearly applicable to a period prior to August 15, or issuance of a check attributable to that period, shall be evidence of such a contractual right, but is not the only test of legal obligation and accrual. The substance of the terms of employment must be considered in each case.

Under this definition outlined above a teacher with a continuing individual employment arrangement commencing before August 15, would be entitled to an increase in pay if both of the following two conditions are met:

(1) Agreement with the individual teacher must have been reached before August 15, even though signing did not take place until later. This is the same as the principle approved by the Council for Labor union contracts. Paragraph 502(b) of ES Circular No. 7. Records must be available to establish the existence of such an agreement.

(2) The pay schedule reflecting an increased rate of pay was established and effective before August 15.

If an agreement was made with the teacher before August 15, the fact that the teacher elected to take a 10-month pay rate effective September 1 would not invalidate the teacher's right to the agreed increases, but only if the teacher had the option to be paid at the higher rate on a 12-month schedule and the 12-month schedule would have met the eligibility criteria.

Continuing teacher employment arrangements. In many school districts teachers have employment arrangements that continue in effect until formal severance from the school district.

In such school districts a salary schedule is established and is published prior to the beginning of the school systems fiscal year. At the time of publication teachers have an enforceable right to the salary indicated in the schedule and the school board has an obligation to pay, even though the teacher's right may be contingent on the teacher's reporting for duty on a specified date.

For purposes of the wage freeze under the principles outlined above, the critical factor is, once again, when each individual teacher is eligible to accrue pay under such an employment arrangement. If a teacher accrued pay for a period which commences prior to August 15, 1971 (regardless of when actual payment is made), the higher salary specified in the schedule may continue to be paid to that teacher.

Salary schedule. Another common pattern exists whereby school districts mail to each teacher an annual offer of employment for the coming year, which must be accepted within a prescribed period. Acceptance of the offer constitutes a binding employment obligation for both parties. Each teacher then becomes eligible to be paid at rates in a salary schedule either in existence or to be established.

In this case the following guidance would usefully clarify existing problems:

If an agreement between a teacher and a school district were reached prior to August 15, 1971, and if the employment agreement provides that the teacher is eligible to accrue payment at the new rate for a period prior to the freeze, he or she may be paid at the higher rate published in the salary schedule.

Even if the individual contract were not signed prior to August 15, a teacher may be paid the higher salary indicated in the schedule if all the following conditions are met: (1) The teacher had accepted an offer of employment prior to August 15; (2) such acceptance created a binding obligation on both parties to enter into employment at the published salary schedule rate; (3) the higher salary were adopted prior to August 15, 1971; and (4) the teacher were eligible to accrue salary for a period prior to August 15, 1971.

Fringe benefits. A subsidiary question arises when a teacher accrues increased fringe benefits or an increased stipend other than salary (such as increased insurance coverage) effective at a specified time before August 15, 1971.

In such cases, the benefits which were in effect prior to August 15, 1971, may be continued during the period of the wage freeze; the pay increase, however, may not be paid since it was not in effect prior to August 15.

FURTHER Q & A'S ON TEACHERS

Question. May we increase the salary of a faculty member who is promoted from instructor to assistant professor, from assistant professor to associate professor and so on up the line?

Answer. Yes, provided these are bona fide promotions which were established practice prior to August 15, 1971.

Question. Certain faculty members were on sabbatical or on leave and had been promised an increase in salary upon return. If that increase were to be based on the faculty member's achievements during the sabbatical or leave, may he receive the increase?

Answer. If the achievement results in, or is the prerequisite for a promotion, he may receive the increase; otherwise, he may not.

Question. If a faculty member is assigned different duties of a more difficult type, without a promotion in rank, is he entitled to a salary increase?

Answer. If it was established practice prior to August 15 to give a salary increase for these additional duties, then the increase is allowed.

Question. If a faculty member has had part administrative and part teaching responsibilities, and if the combination of these duties is changed to make his job more difficult may he receive a salary increase?

Answer. If it was established practice prior to August 15 to grant an increase in salary for a job involving greater responsibility, then the increase may be granted.

Question. If there is an increase in a faculty member's educational credentials (for example, the publication of an article), can that faculty member receive a higher salary?

Answer. No, unless the improvement of his educational credentials results in a bona fide promotion, e.g., assistant professor to associate professor.

Question. Some of the teachers in our system are on 9-month contracts which provided for an increase in salary in September 1971. They did not have any option to take a 12-month contract. If other teachers in the system accrued the increased wages prior to August 15, are those under 9-month contracts also eligible to receive the higher wages?

Answer. No, the teachers under the 9-month contract were not eligible to accrue increased wages before August 15, 1971, and therefore, may not receive the raise.

Question. How are new teachers employed after August 14 treated by the freeze?

Answer. New teachers hired after August 14 are treated in the same manner as any other new employees. The pay rate is for the job and not the person. If the job qualified for the new rate (i.e., an incumbent would have been eligible to accrue pay) the new teacher would receive the increase.

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SUBJECT INDEX

NOTE: Set forth below is a subject index to Circulars 101 and 102 to OEP Economic Stabilization Reg. 1.

The first number in each of the citations below, i.e., 101 or 102, refers to the specified circular; the second number refers to the numbered paragraphs in each circular; the numbers in parentheses refer to subparagraphs of the numbered paragraphs.

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